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# DRAFT CONSTITUTION OF INDIA

ARTICLES AGREED TO BY THE CONSTITUENT ASSEMBLY

AT THE CONSIDERATION STAGE

[*Preamble held over*]

## PART I

**The Union and its Territory and Jurisdiction**

[*Article 1 held over*]

**2.** Parliament may, from time to time, by law admit Admission  
and establish  
ment of new  
States. into the Union, or establish, new States on such terms and conditions as it thinks fit.

**3.** Parliament may by law—

- (a) form a new State by separation of territory from a State or by uniting two or more States or parts of States or by uniting any territory to a part of any State ; Formation of  
new States  
and altera-  
tion of areas  
boundaries  
or names of  
existing  
States.
- (b) increase the area of any State ;
- (c) diminish the area of any State ;
- (d) alter the boundaries of any State :
- (e) alter the name of any State ;

Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless—

- (a) where the proposal contained in the Bill affects the boundaries or name of any State or States for the time being specified in Part I of the First Schedule, the views of the Legislature of the State or, as the case may be, of each of the States both with respect to the proposal to introduce the Bill and with respect to the provisions thereof have been ascertained by the President ; and
- (b) where such proposal affects the boundaries or name of any State or States for the time being specified in Part III of the First Schedule, the previous consent of the State, or, as the case may be, of each of the States to the proposal has been obtained.

**4.** (1) Any law referred to in article 2 or article 3 of this Constitution shall contain such provisions for the amendment of the First Schedule as may be necessary to give effect to the provisions of the law and may also contain such incidental and consequential provisions as Parliament may deem necessary. Law made  
under articles  
2 and 3 to pro-  
vide for the  
amendment  
of the First  
Schedule and  
incidental and  
consequential  
matters.

(2) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 304.

## PART III

### Citizenship

[*Articles 5 and 6 held over*]

**PART III**  
**Fundamental Rights**  
**GENERAL**

**7.** In this Part, unless the context otherwise requires, **Definition.** “the State” includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

**8.** (1) All laws in force immediately before the commencement of this Constitution in the territory of India, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency be void. **Savings.**

(2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

(3) In this article, unless the context otherwise requires,—

(a) “law” includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having the force of law in the territory of India or any part thereof;

(b) “laws in force” includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas.

**Rights of Equality**

**9.** (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. **Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.**

(1a) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be

subject to any disability, liability, restriction or condition with regard to—

(a) access to shops, public restaurants, hotels and places of public entertainment, or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(2) Nothing in this article, shall prevent the State from making any special provision for women and children.

**10.** (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to office under the State. Equality of opportunity in matters of public employment.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible or discriminated against for any employment or office under the State.

(2a) Nothing in this article shall prevent Parliament from making any law prescribing in regard to a class or classes of employment or appointment to an office under any State for the time being specified in the First Schedule or any local or other authority within its territory, any requirement as to residence within that State prior to such employment or appointment.

(3) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens who, in the opinion of the State, are not adequately represented in the services under the State.

(4) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

**11.** "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law. Abolition of Untouchability.

**12.** (1) No title, not being a military or academic distinction, shall be conferred by the State. Abolition of titles.

(2) No citizen of India shall accept any title from any foreign State.

(3) No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, title or office of any kind from or under any foreign State.

**13. (1)** All citizens shall have the right—

- (a) to freedom of speech and expression ;
- (b) to assemble peaceably and without arms ;
- (c) to form associations or unions ;
- (d) to move freely throughout the territory of India ;
- (e) to reside and settle in any part of the territory of India ;
- (f) to acquire, hold and dispose of property ; and
- (g) to practise any profession, or to carry on any occupation, trade or business.

(2) Nothing in sub-clause (a) of clause (1) of this article shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to, libel, slander, defamation or any matter which offends against decency or morality or which undermines the security of or tends to overthrow, the State.

(3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

**Protection  
of certain  
rights  
regarding  
freedom  
of  
speech,  
etc.**

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(5) Nothing in sub-clauses (d), (e) and (f) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any scheduled tribe.

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and in particular nothing in the said sub-clause shall affect the operation of any existing law in so far as it prescribes or empowers any authority to prescribe, or prevent the State from making any law prescribing, or empowering any authority to prescribe, the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business.

**14.** (1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

(2) No person shall be prosecuted and punished for the same offence more than once.

(3) No person accused of any offence shall be compelled to be a witness against himself.

**15.** No person shall be deprived of his life or personal liberty except according to procedure established by law nor shall any person be denied equality before the law or the equal protection of the laws within the territory of India.

**16.** Subject to the provisions of article 244 of this Constitution and of any law made by Parliament, trade, commerce and intercourse throughout the territory of India shall be free.

Freedom of  
trade,  
commerce  
and inter-  
course  
throughout  
the territory  
of India.  
  
Prohibition  
of traffic in  
human  
beings and  
enforced  
labour.

**17.** (1) Traffic in human beings and *begar* and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes. In imposing such service the State shall not make any discrimination on grounds only of race, religion, caste or class.

**18.** No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

Prohibition  
of employ-  
ment of  
children  
in factories,  
etc.

### Rights Relating to Religion

**19.** (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

Freedom of  
conscience  
and free pro-  
fession,  
practice and  
propagation  
of religion..

*Explanation.*—The wearing and carrying of *kirpans* shall be deemed to be included in the profession of the Sikh religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a). regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) for social welfare and reform or for throwing open Hindu religious institutions of a public character to all classes and sections of Hindus.

**20.** Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

- (a) to establish and maintain institutions for religious and charitable purposes;
- (b) to manage its own affairs in matters of religion;
- (c) to own and acquire movable and immovable property; and
- (d) to administer such property in accordance with law.

**21.** No person may be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

Freedom to manage religious affairs and to own, acquire and administer properties for religious or charitable purposes.

**22.** (1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds :

Provided that nothing in this clause shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.

(2) No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.

### Cultural and Educational Rights

**23.** (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct

Protection of interests of minorities

language, script or culture of its own shall have the right to conserve the same.

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

**23A.** (1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

(2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion, or language.

Right of  
minorities to  
establish  
and ad-  
minister  
educational  
institutions.

### Right to Property

[Article 24 held over]

### Right to Constitutional Remedies

**25.** (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.

Remedies  
for enforce-  
ment of  
rights con-  
ferred by  
this Part.

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.

(3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2) of this article, Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2) of this article.

(4) The rights guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

**26.** Parliament may by law determine to what extent any of the rights conferred by this Part shall in their application to the members of the Armed Forces or the Forces charged with the maintenance of public order be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

**27.** Notwithstanding anything elsewhere contained in this Constitution, Parliament shall have, and the Legislature of a State for the time being specified in Part I or Part III of the First Schedule shall not have, power to make laws—

(a) with respect to any of the matters which, under clause (2a) of article 10, article 16, clause (3) of article 25, and article 26, may be provided for by legislation by Parliament, and

(b) for prescribing punishment for those acts which are declared to be offences under this Part;

and Parliament shall, as soon as may be after the commencement of this Constitution, make laws for prescribing punishment for the acts referred to in clause (b) of this article:

Provided that any law in force immediately before the commencement of this Constitution in the territory of India or any part thereof with respect to any of the matters referred to in clause (a) of this article or providing for punishment for any act referred to in clause (b) of this article shall, subject to the terms thereof, continue in force therein, until altered or repealed or amended by Parliament.

*Explanation.*—In this article, the expression “law in force” has the same meaning as in article 307 of this Constitution.

## PART IV

**Directive Principles of State Policy**

**28.** In this Part, unless the context otherwise requires, "the State" has the same meaning as in Part III of this Constitution. Definition.

**29.** The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws. Application of the principles set forth in this Part.

**30.** The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life. State to secure a social order for the promotion and welfare of the people.

**31.** The State shall, in particular, direct its policy towards securing— Certain principles of policy to be followed by the State.

(i) that the citizens, men and women equally, have the right to an adequate means of livelihood :

(ii) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(iii) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(iv) that there is equal pay for equal work for both men and women;

(v) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

(vi) that childhood and youth are protected against exploitation and against moral and material abandonment.

**31-A.** The State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as panchayats..  
Organisation of  
village  
panchayats..

**32.** The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness, disablement, and other cases of undeserved want.  
Right to  
work, to  
education  
and to  
public assis-  
tance in  
certain cases..

**33.** The State shall make provision for securing just and humane conditions of work and for maternity relief.  
Provision for  
just and  
humane con-  
ditions of  
work and  
maternity  
relief.

**34.** The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on individual or co-operative basis in rural areas.  
Living wage.,  
etc., for  
workers.

**35.** The State shall endeavour to secure for the citizens uniform civil code throughout the territory of India.  
Uniform  
civil code.  
for the  
citizens.

**36.** The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.  
Provision for  
free primary  
education.

**37.** The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the scheduled tribes, and shall protect them from social injustice and all forms of exploitation.  
Promotion of  
educational  
and econo-  
mic interests  
of Scheduled  
Castes,  
scheduled  
tribes and  
other weaker  
sections.

**38.** The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption of intoxicating drinks and drugs which are injurious to health except for medicinal purposes.

Duty of the State to raise the level of nutrition and the standard of living and to improve public health.

**38-A.** The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds of cattle and prohibit the slaughter of cows and other useful cattle specially milch and draught cattle and their young stock.

Organisation of agriculture and animal husbandry.

**39.** It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by Parliament by law to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.

Protection, preservation and maintenance of monuments and places and objects of national importance.

**39-A.** The State shall take steps to separate the judiciary from the executive in the public services of the State.

Separation of judiciary from executive.

**40.** The State shall endeavour to—

Promotion of international peace and security.

(a) promote international peace and security;

(b) maintain just and honourable relations between nations;

(c) foster respect for international law and treaty obligations in the dealings of organised people with one another; and

(d) encourage settlement of international disputes by arbitration.

## PART V

## The Union

## CHAPTER I.—The Executive

## THE PRESIDENT AND VICE-PRESIDENT

**41.** There shall be a President of India.

The Presi-  
dent of India.

**42.** (1) The executive power of the Union shall be vested in the President and may be exercised by him in accordance with the Constitution and the law.

(2) Without prejudice to the generality of the foregoing provision, the supreme command of the Defence Forces of India shall be vested in the President and the exercise thereof shall be regulated by law.

(3) Nothing in this article shall—

(a) be deemed to transfer to the President any functions conferred by any existing law on the Government of any State or other authority; or

(b) prevent Parliament from conferring by law functions on authorities other than the President.

**43.** The President shall be elected by the members of an electoral college consisting of —

(a) the elected members of both Houses of Parliament, and

(b) the elected members of the Legislatures of the States.

*Explanation.*—In this and the next succeeding articles, the expression “the Legislature of a State” means, where the Legislature is bi-cameral, the Lower House of the Legislature.

**44.** (1) As far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President.

Manner of  
election of  
President.

\*(2) For the purpose of securing such uniformity the number of votes which each elected member of Parliament and of the Legislature of each State is entitled to cast at such election shall be determined in the following manner :—

(a) every elected member of the Legislature of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of elected members of the Legislature;

\*The method of calculation set out in clause (2) of article 44 may be illustrated as follows :—

*Illustrations to sub-clauses (a) and (b) of clause (2) :—*

(i) The population of Bombay is 20,849,840 Let us take the total number of elected members in the Legislative Assembly of Bombay to be 208 (*i.e.*, one member representing one lakh of the population). To obtain the number of votes which each such elected member will be entitled to cast at the election of the President, we have first to divide 20,849,840 (which is the population) by 208 (which is the total number of elected members), and then to divide the quotient by 1,000. In this case, the quotient is 100,239. The number of votes which each such member will be entitled to cast would be 100,239/1000 *i.e.*, 100 (disregarding the remainder 239 which is less than five hundred).

(ii) Again, the population of Bikaner is 1,292,938. Let us take the total number of elected members of the Legislature of Bikaner to be 130 (*i.e.*, one member representing roughly ten thousand of the population). Now, applying the aforesaid process, if we divide 1,292,938 (*i.e.*, the population) by 130 (*i.e.*, the total number of elected members), the quotient is 9,945. Therefore, the number of votes which each member of the Bikaner Legislature would be entitled to cast is 9,945/1000 that is 10 (counting the remainder 945 which is greater than five hundred as equivalent to 1000).

*Illustration under sub-clause (c) of clause (2) :—*

If the total number of votes assigned to the members of the Legislatures of the States in accordance with the above calculation be 74,940 and the total number of elected members of both the Houses of Parliament be 750, then to obtain the number of votes which each member of either House of Parliament will be entitled to cast at the election of the President, we should have to divide 74,940 by 750. Thus the number of votes which each such member will be entitled to cast in the case would be

$$\frac{74,940}{750} = \frac{99}{25}, \text{ i.e., } 100 \quad (\text{the fraction } \frac{23}{25} \text{ which exceeds one-half being counted as one}).$$

- (b) if, after taking the said multiples of one thousand, the remainder is not less than ~~five~~ hundred, then the vote of each member referred to in sub-clause (a) of this clause shall be further increased by one;
- (c) each elected member of either House of Parliament shall have such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislatures of the States under sub-clauses (a) and (b) of this clause by the total number of the elected members of both Houses of Parliament, fractions exceeding one-half being counted as one and other fractions being disregarded.

(3) The election of the President shall be held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

*Explanation.*—In this article, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published.

**45.**(1) The President shall hold office for a term of five years from the date on which he enters upon his <sup>Term of Office of</sup> <sub>President.</sub>

Provided that—

- (a) the President may, by writing under his hand addressed to the Vice-President, resign his office;
- (b) the President may, for violation of the Constitution, be removed from office by impeachment in the manner provided in article 50 of this Constitution;
- (c) the President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(2) Any resignation addressed to the Vice-President under clause (a) of the proviso to clause (1) of this article shall forthwith be communicated by him to the Speaker of the House of the People.

**46.** A person who holds, or who has held, office as President shall be eligible for re-election to that office. Eligibility for re-election.

**47.** (1) No person shall be eligible for election as President unless he— Qualifications for election as President

- (a) is a citizen of India,
- (b) has completed the age of thirty-five years, and
- (c) is qualified for election as a member of the House of the People.

(2) A person shall not be eligible for election as President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

*Explanation.*—For the purposes of this clause a person shall not be deemed to hold any office of profit by reason only that—

- (a) he is the Governor of any State for the time being specified in Part I of the First Schedule or is a minister either for India, or for any such State; or
- (b) he is a minister for any State for the time being specified in Part III of the First Schedule, if he is responsible to the Legislature of the State, or, where there are two Houses of the Legislature of the State, to the Lower House of the Legislature, and if not less than three-fourths of the members of the Legislature or House, as the case may be, are elected.

**48.** (1) The President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as President. Conditions of President's Office.

(2) The President shall not hold any other office of profit.

(3) The President shall have an official residence and there shall be paid to the President such emoluments and allowances as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments and allowances as are specified in the Second Schedule.

(4) The emoluments and allowances of the President shall not be diminished during his term of office.

**49.** Every President and every person acting as President or discharging the functions of the President shall before entering upon his office make and subscribe in the presence of the Chief Justice of India or, in his absence, the senior-most judge of the Supreme Court available an affirmation or oath in the following form, that is to say—

Affirmation or  
oath by the  
President or  
person acting  
as, or dis-  
charging the  
functions of  
the President  
before enter-  
ing office.

"I, A. B., do swear in the name of God  
solemnly affirm

that I will faithfully execute the office of President (or discharge the functions of the President) of India and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of India."

**50.** (1) When a President is to be impeached for violation of the Constitution, the charge shall be preferred by either House of Parliament.

Procedure  
for impeach-  
ment of the  
President.

(2) No such charge shall be preferred unless—

(a) the proposal to prefer such charge is contained in a resolution which has been moved after at least fourteen days' notice in writing signed by not less than one-fourth of the total number of members of the House has been given of their intention to move the resolution, and

(b) such resolution has been passed by a majority of not less than two-thirds of the total membership of the House.

(3) When a charge has been so preferred by either House of Parliament, the other House shall investigate the charge or cause the charge to be investigated

and the President shall have the right to appear and to be represented at such investigation.

(4) If as a result of the investigation a resolution is passed by a majority of not less than two-thirds of the total membership of the House by which the charge was investigated or caused to be investigated, declaring that the charge preferred against the President has been sustained, such resolution shall have the effect of removing ~~the President~~ from his office as from the date on which the resolution is so passed.

**51.** (1) An election to fill a vacancy caused by the expiration of the term of office of President shall be completed before the expiration of the term.

(2) An election to fill a vacancy in the office of President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after, and in no case later than six months from, the date of occurrence of the vacancy; and the person elected to fill the vacancy shall be entitled to hold office for the full term of five years as provided in article 45 of this Constitution.

**52.** There shall be a Vice-President of India.

The Vice-President of India.

**53.** The Vice-President shall be *ex-officio* Chairman of the Council of States and shall not hold any other office of profit :

The Vice-President to be *ex-officio* Chairman of the Council of States.

Provided that during any period when the Vice-President acts as President or discharges the functions of the President under article 54 of this Constitution, he shall not perform the duties of the office of Chairman of the Council of States and shall not be entitled to any salary or allowance payable to the Chairman of the Council of States under article 79 of this Constitution.

**54.** (1) In the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or removal, or otherwise, the Vice-President shall act as President until the date on which a new President elected in accordance with the provisions of this Chapter to fill such vacancy enters upon his office.

The Vice-President to act as President or to discharge his functions during casual vacancies in the office, or the absence, of the President.

(2) When the President is unable to discharge his functions owing to absence, illness or any other cause,

the Vice-President shall discharge his functions until the date on which the President resumes his duties.

(3) The Vice-President shall, during, and in respect of, the period while he is so acting as, or discharging the functions of the President, have all the powers and immunities of the President and be entitled to such privileges, emoluments and allowances as may be determined by Parliament by law and, until provision in that behalf is so made, such privileges, emoluments and allowances as are specified in the Second Schedule.

55. (1) The Vice-President shall be elected by the members of both Houses of Parliament assembled at a joint meeting in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be secret ballot.

(2) The Vice-President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected Vice-President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Vice-President.

(3) No person shall be eligible for election as Vice-President unless—

(a) is a citizen of India;

(b) has completed the age of thirty-five years; and

(c) is qualified for election as a member of the Council of States.

(4) A person shall not be eligible for election as Vice-President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

*Explanation.*—For the purposes of this clause, a person shall not be deemed to hold any office of profit by reason only that—

(a) he is the Governor of any State for the time being specified in Part I of the First Schedule

or is a minister either for India or for any such State; or

(b) he is a minister for any State for the time being specified in Part III of the First Schedule, if he is responsible to the Legislature of the State, or, where there are two Houses of the Legislature of the State, to the Lower House of such Legislature, and if not less than three-fourths of the members of such Legislature or House, as the case may be, are elected.

(5) An election to fill a vacancy caused by the expiration of the term of office of Vice-President shall be completed before the expiration of the term.

(6) An election to fill a vacancy in the office of Vice-President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after the occurrence of the vacancy, and the person elected to fill such vacancy shall be entitled to hold office for the full term of five years as provided in article 56 of this Constitution.

56. The Vice-President shall hold office for a term of five years from the date on which he enters upon his office : Term of Office of Vice-President

Provided that—

- (a) a Vice-President may, by writing under his hand addressed to the President, resign his office;
- (b) a Vice-President may be removed from his office for incapacity or want of confidence by a resolution of the Council of States passed by a majority of all the then members of the Council and agreed to by the House of the People; but no resolution for the purpose of this clause shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution;
- (c) a Vice-President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

**57.** Parliament may make such provision as it thinks fit for the discharge of the functions of the President in any contingency not provided for in this Chapter.

Power of Parliament to provide for the discharge of the functions of the President in any other contingency.

**58.** (1) All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final.

(2) Subject to the provisions of this Constitution, Parliament may by law regulate any matter relating to or connected with the election of a President or Vice-President.

**59.** (1) The President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence—

Power of President to grant pardons, etc., and to suspend, remit or commute sentences in certain cases.

- (a) in all cases where the punishment or sentence is by a Court Martial;
- (b) in all cases where the punishment or sentence is for an offence under any law relating to a matter with respect to which Parliament has, and the Legislature of the State in which the offence is committed has not, power to make laws;
- (c) in all cases where the sentence is a sentence of death.

(2) Nothing in sub-clause (a) of clause (1) of this article shall affect the power conferred by law on any officer of the Armed Forces of India to suspend, remit or commute a sentence passed by a Court Martial.

(3) Nothing in sub-clause (c) of clause (1) of this article shall affect the power to suspend, remit or commute a sentence of death exercisable by the Governor or the Ruler of the State under any law for the time being in force.

**60.** (1) Subject to the provisions of this Constitution the executive power of the Union shall extend—

Extent of executive power of the Union.

- (a) to the matters with respect to which Parliament has power to make laws; and

(b) to the exercise of such rights, authority and jurisdiction as are exercisable by the Government of India by virtue of any treaty or agreement:

Provided that the executive power referred to in sub-clause (a) of this clause shall not, save as expressly provided in this Constitution or in any law made by Parliament, extend in any State to matters with respect to which the Legislature of the State has also power to make laws.

(2) Until otherwise provided by Parliament, a State and any officer or authority of a State may, notwithstanding anything contained in this article, continue to exercise in matters with respect to which Parliament has power to make laws for that State such executive power or functions as the State or officer or authority thereof could exercise immediately before the commencement of this Constitution.

### Council of Ministers

**61.** (1) There shall be a Council of ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions.

Council of  
ministers to  
aid and  
advise Presi-  
dent.

(2) The question whether any, and if so what, advice was tendered by ministers to the President shall not be inquired into in any court.

**62.** (1) The Prime Minister shall be appointed by the President and the other ministers shall be appointed by the President on the advice of the Prime Minister.

Other pro-  
visions as to  
ministers.

(2) The ministers shall hold office during the pleasure of the President.

(3) The Council of ministers shall be collectively responsible to the House of the People.

(4) Before a minister enters upon his office, the President shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

(5) A minister who from the date of his appointment is, for a period of six consecutive months, not a member of either House of Parliament shall at the expiration of that period cease to be a minister.

(5a) In the choice of his ministers, and in the exercise of his other functions under this Constitution, the President shall be generally guided by the instructions set out in Schedule III-A, but the validity of anything done by the President shall not be called in question on the ground that it was done otherwise than in accordance with such instructions.

(6) The salaries and allowances of ministers shall be such as Parliament may from time to time by law determine and, until Parliament so determine, shall be as specified in the Second Schedule.

### **The Attorney-General for India**

**63.** (1) The President shall appoint a person, who is <sup>Attorney-General for India.</sup> qualified to be appointed a judge of the Supreme Court, to be Attorney-General for India.

(2) It shall be the duty of the Attorney-General to give advice to the Government of India upon such legal matters and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the President, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.

(3) In the performance of his duties the Attorney-General shall have right of audience in all courts in the territory of India.

(4) The Attorney-General shall hold office during the pleasure of the President, and shall receive such remuneration as the President may determine.

### **Conduct of Government Business**

**64.** (1) All executive action of the Government of India shall be expressed to be taken in the name of the President. <sup>Conduct of business of the Government of India.</sup>

(2) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the President, and the validity of an order or instrument which is so authenticated shall not be called in question

on the ground that it is not an order or instrument made or executed by the President.

**65. It shall be the duty of the Prime Minister—**

- (a) to communicate to the President all decisions of the Council of ministers relating to the administration of the affairs of the Union and proposals for legislation;
- (b) to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and
- (c) if the President so requires, to submit for the consideration of the Council of ministers any matter on which a decision has been taken by a minister but which has not been considered by the Council.

Duties of  
Prime Minis-  
ter as re-  
spects the  
furnishing of  
information  
to the Presi-  
dent, etc.

## **CHAPTER II.—Parliament**

### **GENERAL**

**66. There shall be a Parliament for the Union which** Constitution  
shall consist of the President and two Houses to be of Parlia-  
known respectively as the Council of States and the ment.  
House of the People.

**67. (1) The Council of States shall consist of not** Composition  
more than two hundred and fifty members of whom— of Houses of  
Parliament.

(a) twelve members shall be nominated by the President in the manner provided in clause (2) of this article; and

(b) the remainder shall be representatives of the States.

(1a) The allocation of seats to representatives of the States in the Council of States shall be in accordance with the provisions in that behalf contained in Schedule III-B.

(2) The members to be nominated by the President under sub-clause (a) of clause (1) of this article shall consist of persons having special knowledge or practical

experience in respect of such matters as the following, namely:—

Letters, art, science and social services.

(3) The representatives of each State for the time being specified in Part I or Part III of the First Schedule in the Council of States shall—

- (a) where the Legislature of the State has two Houses, be elected by the elected members of the Lower House in accordance with the system of proportional representation by means of the single transferable vote;
- (b) where the Legislature of the State has only one House, be elected by the elected members of that House in accordance with the system of proportional representation by means of the single transferable vote; and
- (c) where there is no House of the Legislature for the State, be chosen in such manner as Parliament may by law prescribe.

(4) The representatives of the States for the time being specified in Part II of the First Schedule in the Council of States shall be chosen in such manner as Parliament may by law prescribe.

(5) (a) Subject to the provisions of articles 292 and 293 of this Constitution, the House of the People shall consist of not more than five hundred members directly elected by the voters in the States.

(b) For the purpose of sub-clause (a), the States shall be divided, grouped or formed into territorial constituencies and the number of representatives to be allotted to each such constituency shall be so determined as to ensure that there shall be not less than one representative for every 750,000 of the population and not more than one representative for every 500,000 of the population.

(c) The ratio between the number of representatives allotted to each territorial constituency and the population of that constituency as ascertained at the last preceding census of which the relevant figures have been

published shall, so far as practicable, be the same throughout India.

(6) The election to the House of the People shall be on the basis of adult suffrage; that is to say, every citizen who is not less than twenty-one years of age and is not otherwise disqualified under this Constitution or under any Act of Parliament on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice shall be entitled to be registered as a voter at such elections.

(7) Parliament may, by law, provide for the representation in the House of the People of territories other than States.

(8) Upon the completion of each census, the representation of the several States in the Council of States and of the several territorial constituencies in the House of the People shall, subject to the provisions of article 289 of this Constitution, be readjusted by such authority, in such manner and with effect from such date as Parliament may, by law, determine:

Provided that such readjustment shall not affect representation to the House of the People until the dissolution of the then existing House.

(9) When States for the time being specified in Part III of the First Schedule are grouped together for the purpose of returning representatives to the Council of States, the entire group shall be deemed to be a single State for the purposes of this article.

**68.** (1) The Council of States shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law. Duration of  
Houses of  
Parliament

(2) The House of the People, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer, and the expiration of the said period of five years shall operate as the dissolution of the House:

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

**68-A.** A person shall not be qualified to be chosen to fill a seat in Parliament unless he —

Qualification  
for member-  
ship of  
Parliament

(a) is a citizen of India ;

(b) is, in the case of a seat in the Council of States, not less than thirty years of age and, in the case of a seat in the House of the People, not less than twenty-five years of age, and

(c) possesses such other qualifications as may be prescribed in this behalf by or under any law made by Parliament.

**69.** (1) The Houses of Parliament shall be summoned to meet twice at least in every year, and six months shall not intervene between their last sitting in one session and the date appointed for their first sitting in the next session

(2) Subject to the provisions of this article, the President may from time to time —

(a) summon the Houses or either House of Parliament to meet at such time and place as he thinks fit ;

(b) prorogue the Houses ;

(c) dissolve the House of the People.

**70.** (1) The President may address either House of Parliament or both Houses assembled together, and for that purpose require the attendance of members.

Right of Pre-  
sident to  
address and  
send  
messages  
to Houses.

(2) The President may send messages to either House of Parliament, whether with respect to a Bill then pending in Parliament or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

**71.** (1) At the commencement of every session the President shall address both Houses of Parliament assembled together and inform Parliament of the causes of its summons.

(2) Provision shall be made by the rules regulating the procedure of either House for the allotment of time for discussion of the matters referred to in such address and for the precedence of such discussion over other business of the House.

**72.** Every minister and the Attorney-General of India shall have the right to speak in, and otherwise to take part in the proceedings of, either House, any joint sitting of the Houses and any committee of Parliament of which he may be named a member, but shall not by virtue of this article be entitled to vote.

### Officers of Parliament

**73.** (1) The Vice-President of India shall be ex-officio Chairman of the Council of States.

(2) The Council of States shall, as soon as may be, choose a member of the Council to be Deputy Chairman thereof and so often as the office of Deputy Chairman becomes vacant the Council shall choose another member to be Deputy Chairman thereof.

**74.** A member holding office as Deputy Chairman of the Council of States :—

- (a) shall vacate his office if he ceases to be a member of the Council ;
- (b) may at any time, by writing under his hand addressed to the Chairman, resign his office ; and
- (c) may be removed from his office for incapacity or want of confidence by a resolution of the Council passed by a majority of all the then members of the Council :

Provided that no resolution for the purpose of clause (c) of this article shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

75. (1) While the office of Chairman is vacant, or during any period when the Vice-President is acting as, or discharging the functions of the President under article 54 of this Constitution, the duties of the office shall be performed by the Deputy Chairman, or if the office of Deputy Chairman is also vacant, by such member of the Council of States as the President may appoint for the purpose.

Power of the Deputy Chairman or other persons to perform the duties of the office of, or to act as, Chairman.

(2) During the absence of the Chairman from any sitting of the Council of States, the Deputy Chairman or, if he is also absent, such person as may be determined by the rules of procedure of the Council, or, if no such person is present, such other person as may be determined by the Council, shall act as Chairman.

**75-A.** At any sitting of the Council of States, while any resolution for the removal of the Vice-President from his office is under consideration, the Chairman, or while any resolution for the removal of the Deputy Chairman from his office is under consideration, the Deputy Chairman, shall not, though he is present, preside, and the provisions of clause (2) of the last preceding article shall apply in relation to every such sitting as they apply in relation to a sitting from which the Chairman or, as the case may be, the Deputy Chairman, is absent.

The Chairman or the Deputy Chairman not to preside at sittings of the Council of States while a resolution for his removal from office is under consideration.

76. The House of the People shall, as soon as may be, choose two members of the House to be respectively Speaker and Deputy Speaker thereof, and, so often as the office of Speaker or Deputy Speaker becomes vacant, the House shall choose another member to be Speaker or Deputy Speaker, as the case may be.

The Speaker and Deputy Speaker of the House of the People.

77. A member holding office as Speaker or Deputy Speaker of the House of the People :—

(a) shall vacate his office if he ceases to be a member of the House of the People;

Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker.

(b) may at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office ; and

(c) may be removed from his office for incapacity or want of confidence by a resolution of the House of the People passed by a majority of all the then members of the House:

Provided that no resolution for the purpose of clause (c) of this article shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution :

Provided further that, whenever the House of the People is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the House of the People after the dissolution.

78. (1) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker, or if the office of Deputy Speaker is also vacant, by such member of the House of the People as the President may appoint for the purpose.

(2) During the absence of the Speaker from any sitting of the House of the People, the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the House, or, if no such person is present, such other person as may be determined by the House, shall act as Speaker.

78A. At any sitting of the House of the People, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not though he is present, preside, and the provisions of clause (2) of the last preceding article shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker, or, as the case may be, the Deputy Speaker, is absent.

79. There shall be paid to the Chairman and the Deputy Chairman of the Council of States, and to the Speaker and the Deputy Speaker of the House of the People, such salaries and allowances as may be respectively fixed by Parliament by law, and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule.

## Conduct of Business

80. (1) Save as otherwise provided in this Constitution, all questions at any sitting of either House or joint sitting of the Houses shall be determined by a majority of votes of the members present and voting, other than the Chairman or Speaker or person acting as such.

Voting in  
Houses ;  
power of  
Houses to  
act notwithstanding  
standing  
vacancies  
and quorums .

The Chairman or Speaker or person acting as such shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(2) Either House of Parliament shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in Parliament shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings.

(3) If at any time during a meeting of a House, less than one-sixth of the total number of members of the House are present, it shall be the duty of the Chairman or Speaker or person acting as such either to adjourn the House, or to suspend the meeting until at least one-sixth of the members are present.

## Disqualifications of Members

81. Every member of either House of Parliament shall, before taking his seat, make and subscribe before the President, or some person appointed in that behalf by him, an affirmation or oath according to the form set out for the purpose in the Third Schedule.

Affirmation  
or oath by  
members.

82. (1) No person shall be a member of both Houses of Parliament and provision shall be made by Parliament by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.

Vacation of  
seats.

(1a) No person shall be a member both of Parliament and of the Legislature of a State for the time being specified in Part I or Part III of the First Schedule, and if a person is chosen a member both of Parliament and of the

Legislature of such a State, then at the expiration of such period as may be specified in rules made by the President, that person's seat in Parliament shall become vacant, unless he has previously resigned his seat in the Legislature of the State.

- (2) If a member of either House of Parliament—
  - (a) becomes subject to any of the disqualifications mentioned in clause (1) of the next succeeding article ; or
  - (b) resigns his seat by writing under his hand addressed to the Chairman or the Speaker, as the case may be,

his seat shall thereupon become vacant.

- (3) If for a period of sixty days a member of either House of Parliament is without permission of the House absent from all meetings thereof, the House may declare his seat vacant :

Provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days.

**83.** (1) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament— Disqualifications for membership.

- (a) if he holds any office of profit under the Government of India or the Government of any State other than an office declared by Parliament by law not to disqualify its holder ;
- (b) if he is of unsound mind and stands so declared by a competent court ;
- (c) if he is an undischarged insolvent ;
- (d) if he has ceased to be a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance or adherence to a foreign State ;
- (e) if he is so disqualified by or under any law made by Parliament.

(2) For the purposes of this article a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State by reason only that—

- (a) he is a minister either for India or for any State for the time being specified in Part I of the First Schedule ; or
- (b) he is a minister for any State for the time being specified in Part III of the First Schedule, if he is responsible to the Legislature of the State, or where there are two Houses of the Legislature of the State, to the Lower House of such Legislature and if not less than three-fourths of the members of such Legislature or House, as the case may be, are elected.

**84.** If a person sits or votes as a member of either House of Parliament before he has complied with the requirements of article 81 of this Constitution, or when he knows that he is not qualified, or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Government of India.

### Privileges and Immunities of Members

**85.** (1) Subject to the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament.

(2) No member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.

(3) In other respects, the privileges and immunities of members of the Houses shall be such as may from time to time be defined by Parliament by law, and, until so defined, shall be such as are enjoyed by the members

of the House of Commons of the Parliament of the United Kingdom at the commencement of this Constitution.

(4) The provisions of clauses (1), (2) and (3) of this article shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise take part in the proceedings of, a House of Parliament or any committee thereof as they apply in relation to members of Parliament.

**86.** Members of either House of Parliament shall be <sup>Salaries and allowances of members.</sup> entitled to receive such salaries and allowances as may from time to time be determined by Parliament by law and, until provision in that respect is so made, allowances at such rates and upon such conditions as were immediately before the date of commencement of this Constitution applicable in the case of members of the Constituent Assembly of India.

#### Legislative Procedure

**87.** (1) Subject to the provisions of articles 89 and 97 of this Constitution with respect to Money Bills and other financial Bills, a Bill may originate in either House <sup>Provisions as to introduction and passing of Bills.</sup> of Parliament.

(2) Subject to the provisions of articles 88 and 89 of this Constitution, a Bill shall not be deemed to have been passed by the Houses of Parliament unless it has been agreed to by both Houses, either without amendment or with such amendments only as are agreed to by both Houses.

(3) A Bill pending in Parliament shall not lapse by reason of the prorogation of the Houses.

(4) A Bill pending in the Council of States which has not been passed by the House of the People shall not lapse on a dissolution of the House of the People.

(5) A Bill which is pending in the House of the People or which having been passed by the House of the People is pending in the Council of States shall, subject to the provisions of article 88 of this Constitution, lapse on a dissolution of the House of the People.

**88.** (1) If after a Bill has been passed by one House and transmitted to the other House— <sup>Joint sitting of both Houses in certain cases.</sup>

(a) the Bill is rejected by the other House; or

- (b) the Houses have finally disagreed as to the amendments to be made in the Bill ; or
- (c) more than six months elapse from the date of the reception of the Bill by the other House without the Bill being passed by it,

the President may, unless the Bill has lapsed by reason of a dissolution of the House of the People, notify to the Houses by message if they are sitting or by public notification if they are not sitting, his intention to summon them to meet in a joint sitting for the purpose of deliberating and voting on the Bill :

Provided that nothing in this clause shall apply to a Money Bill.

(2) In reckoning any such period of six months as is referred to in clause (1) of this article, no account shall be taken of any time during which the House referred to in sub-clause (c) of that clause is prorogued or adjourned for more than four consecutive days.

(3) Where the President has under clause (1) of this article notified his intention of summoning the Houses to meet in a joint sitting, neither House shall proceed further with the Bill, but the President may at any time after the date of his notification summon the Houses to meet in a joint sitting for the purpose specified in the notification and, if he does so, the Houses shall meet accordingly.

(4) If at the joint sitting of the two Houses the Bill with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Houses present and voting, it shall be deemed for the purposes of this Constitution to have been passed by both Houses :

Provided that at a joint sitting—

- (a) if the Bill, having been passed by one House, has not been passed by the other House with amendments and returned to the House in which it originated, no amendment shall be proposed to the Bill other than such amendments (if any) as are made necessary by the delay in the passage of the Bill ;

(b) if the Bill has been so passed and returned, only such amendments as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Houses have not agreed;

and the decision of the person presiding as to the amendments which are admissible under this clause shall be final.

(5) A joint sitting may be held under this article and a Bill passed thereat, notwithstanding that a dissolution of the House of the People has intervened since the President notified his intention to summon the Houses to meet therein.

89. (1) A Money Bill shall not be introduced in the Council of States.

(2) After a Money Bill has been passed by the House of the People it shall be transmitted to the Council of States for its recommendations and the Council of States shall within a period of fourteen days from the date of its receipt of the Bill return the Bill to the House of the People with its recommendations and the House of the People may thereupon either accept or reject all or any of the recommendations of the Council of States.

(3) If the House of the People accepts any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Council of States and accepted by the House of the People.

(4) If the House of the People does not accept any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by the House of the People without any of the amendments recommended by the Council of States.

(5) If a Money Bill passed by the House of the People and transmitted to the Council of States for its recommendations is not returned to the House of the People within the said period of fourteen days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the House of the People.

**90** (1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely :—

- (a) the imposition, abolition, remission, alteration or regulation of any tax;
- (b) the regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India;
- (c) the custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of moneys from any such fund;
- (d) the appropriation of moneys out of the Consolidated Fund of India;
- (e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure;
- (f) the receipt of money on account of the Consolidated Fund of India or the custody or issue of such money or the audit of the accounts of the Government of India; or
- (g) any matter incidental to any of the matters specified in items (a) to (f) of this clause.

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the House of the People thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Council of States under the last preceding article, and when it is presented to the President for assent under the next succeeding article,

the certificate of the Speaker of the House of the People signed by him that it is a Money Bill.

**91.** When a Bill has been passed by the Houses <sup>Assent to Bills.</sup> of Parliament, it shall be presented to the President, and the President shall declare either that he assents to the Bill, or that he withholds assent therefrom :

Provided that the President may, as soon as possible after the presentation to him of a Bill for assent, return the Bill if it is not a Money Bill to the Houses with a message requesting that they will reconsider the Bill or any specified provision thereof, and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message, and the Houses shall reconsider the Bill accordingly and if the Bill is passed again by the Houses with or without amendment and presented to the President for assent, the President shall not withhold assent therefrom.

#### **Procedure in Financial Matters**

**92.** (1) The President shall in respect of every financial year cause to be laid before both the Houses of Parliament a statement of the estimated receipts and expenditure of the Government of India for that year, in this Part of this Constitution referred to as the "annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

- (a) the sums required to meet expenditure described by this Constitution as expenditure charged upon the Consolidated Fund of India; and
- (b) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of India,

and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the Consolidated Fund of India—

- (a) the emoluments and allowances of the President and other expenditure relating to his office;

- (b) the salaries and allowances of the Chairman and the Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the House of the People;
- (c) debt charges for which the Government of India is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;
- (d) (i) the salaries, allowances and pensions payable to or in respect of judges of the Supreme Court;
  - (ii) the pensions payable to or in respect of judges of the Federal Court;
  - (iii) the pensions payable to or in respect of judges of any High Court which exercises or immediately before the commencement of this Constitution exercised jurisdiction within any area included in the States for the time being specified in Parts I and II of the First Schedule;
- (dd) the salary, allowances and pension payable to or in respect of the Comptroller and Auditor-General of India;
- (e) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal; and
- (f) any other expenditure declared by this Constitution or by Parliament by law to be so charged.

**93.** (1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of India shall not be submitted to the vote of Parliament, but nothing in this clause shall be construed as preventing the discussion in either House of Parliament of any of these estimates.

Procedure in  
Parliament  
with respect  
to estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the House of the People and the House of the People shall have power to assent, or to refuse to

assent to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the President.

**94.** (1) As soon as may be after the grants under the last preceding article have been made by the House of the People there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of India all moneys required to meet—  
*Appropriation Bills,*

(a) the grants so made by the House of the People; and

(b) the expenditure charged on the Consolidated Fund of India but not exceeding in any case the amount shown in the statement previously laid before Parliament.

(2) No amendment shall be proposed to any such Bill in either House of Parliament which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of India, and the decision of the person presiding as to the amendments which are admissible under this clause shall be final.

(3) Subject to the provisions of the next two succeeding articles no money shall be withdrawn from the Consolidated Fund of India except under appropriation made by law passed in accordance with the provisions of this article.

**95.** (1) The President shall—

*Supplementary, additional or excess grants.*

(a) if the amount authorised by any law made in accordance with the provisions of article 94 of this Constitution to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon

some new service not contemplated in the annual financial statement for that year, or

- (b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year,

cause to be laid before both the Houses of Parliament another statement showing the estimated amount of that expenditure or cause to be presented to the House of the People a demand for such excess, as the case may be.

(2) The provisions of the last three preceding articles shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorization of appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or grant.

**96.** (1) Notwithstanding anything contained in the foregoing provisions of this Chapter the House of the People shall have power—

- (a) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in article 93 of this Constitution for the voting of such grant and the passing of the law in accordance with the provisions of article 94 of this Constitution in relation to that expenditure;
- (b) to make a grant for meeting an unexpected demand upon the resources of India when on account of the magnitude or the indefinite character of the service the demand cannot be stated with the details ordinarily given in an annual financial statement;

Votes on  
account,  
votes on  
credit and  
exceptional  
grants.

(c) to make an exceptional grant which forms no part of the current service of any financial year;

and Parliament shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of India for the purposes for which the said grants are made.

(2) The provisions of articles 93 and 94 of this Constitution shall have effect in relation to the making of any grant under clause (1) of this article and to any law to be made under that clause as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet such expenditure.

**97.** (1) A Bill or amendment making provision for any of the matters specified in items (a) to (f) of clause (1) of article 90 of this Constitution shall not be introduced or moved except on the recommendation of the President and a Bill making such provision shall not be introduced in the Council of States:

Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India shall not be passed by either House of Parliament unless the President has recommended to that House the consideration of the Bill.

## PROCEDURE GENERALLY

**98.** (1) Each House of Parliament may make rules <sup>Rules of procedure.</sup> for regulating, subject to the provisions of this Constitution, its procedure and the conduct of its business.

(2) Until rules are made under clause (1) of this article, the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature of the Dominion of India shall have effect in relation to Parliament subject to such modifications and adaptations as may be made therein by the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.

(3) The President, after consultation with the Chairman of the Council of States and the Speaker of the House of the People, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Houses.

(4) At a joint sitting of the two Houses the Speaker of the House of the People,<sup>\*</sup> or in his absence such person as may be determined by rules of procedure made under clause (3) of this article, shall preside.

**98-A.** Parliament may, for the purpose of the timely completion of the financial business, regulate by law the procedure of, and the conduct of business in, each House of Parliament in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of India, and, if and in so far as the provision of any law so made is inconsistent with any rule made by a House of Parliament under the last preceding article or with any rule or standing order having effect in relation to Parliament under clause (2) of that article, such provision shall prevail.

Regulation by law of procedure in Parliament in relation to financial business.

*(Article 99 held over)*

**100.** (1) No discussion shall take place in Parliament with respect to the conduct of any judge of the Supreme Court or a High Court in the discharge of his duties except upon a motion for presenting an address to the President praying for the removal of the Judge as hereinafter provided.

(2) In this article the reference to a High Court shall be construed as including a reference to any court in a State for the time being specified in Part III of the First Schedule which is a High Court for any of the purposes of Chapter IV of this Part.

**101.** (1) The validity of any proceedings in Parliament shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or other member of Parliament in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in Parliament shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

### C H A P T E R III—LEGISLATIVE POWERS OF THE PRESIDENT

**102.** (1) If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require.

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of Parliament assented to by the President, but every such Ordinance—

(a) shall be laid before both Houses of Parliament and shall cease to operate at the expiration of six weeks from the re-assembly of Parliament, or, if before the expiration of that period resolutions disapproving it are passed by both Houses, upon the passing of the second of those resolutions; and

(b) may be withdrawn at any time by the President.

*Explanation :*—Where the Houses of Parliament are summoned to re-assemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

(3) If and so far as an Ordinance under this article makes any provision which Parliament would not under this Constitution be competent to enact, it shall be void.

#### CHAPTER IV—THE UNION JUDICIARY

103. (1) There shall be a Supreme Court of India Establishment and constitution by law prescribes a larger number, of seven other judges. of Supreme Court.

(2) Every judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose and shall hold office until he attains the age of sixty-five years :

Provided that in the case of appointment of a judge, other than the Chief Justice, the Chief Justice of India shall always be consulted :

Provided further that—

(a) a judge may, by writing under his hand addressed to the President, resign his office ;

(b) a judge may be removed from his office in the manner provided in clause (4).

(3) A person shall not be qualified for appointment as a judge of the Supreme Court unless he is a citizen of India and—

(a) has been for at least five years a judge of a High Court or of two or more such courts in succession ; or

- (b) has been for at least ten years an advocate of a High Court or of two or more such courts in succession ; or
- (c) is a distinguished\* jurist.

*Explanation I :—*In this clause ‘High Court’ means a High Court which exercises, or which before the commencement of this Constitution exercised, jurisdiction in any part of the territory of India.

*Explanation II :—*In computing for the purpose of this clause the period during which a person has been an advocate, any period during which a person held judicial office not inferior to that of a district judge after he became an advocate, shall be included.

(4) A judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting has been presented to the President in the same session for such removal on the ground of proved misbehaviour or incapacity.

(5) Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a judge under the last preceding clause.

(6) Every person appointed to be a judge of the Supreme Court shall, before he enters upon his office, make and subscribe before the President or some person appointed in that behalf by him an affirmation or oath according to the form set out for the purpose in the Third Schedule.

(7) No Person who has held office as a judge of the Supreme Court shall plead or act in any court or before any authority within the territory of India.

[Article 104 held over].

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\* The adoption of the word “distinguished” is subject to the scrutiny by the Drafting Committee as to its suitability.

**105.** When the office of Chief Justice of India is vacant or when the Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other judges of the court as the President may appoint for the purpose.

**106.** (1) If at any time there should not be a quorum of the judges of the Supreme Court available to hold or continue any session of the court, the Chief Justice may, with the previous consent of the President and after consultation with the Chief Justice of the High Court concerned, request in writing the attendance at the sittings of the court, as an ad hoc judge, for such period as may be necessary of a judge of a High Court duly qualified for appointment as a judge of the Supreme Court to be nominated by the Chief Justice of India.

(2) It shall be the duty of the judge, who has been so nominated, in priority to other duties of his office, to attend the sittings of the Supreme Court at the time and for the period for which his attendance is required, and while so attending he shall have all the jurisdiction, powers and privileges, and shall discharge the duties, of a judge of the Supreme Court.

**107.** Notwithstanding anything contained in this Chapter, the Chief Justice of India may at any time, with the previous consent of the President, request any person who has held the office of a judge of the Supreme Court or of the Federal Court to sit and act as a judge of the Supreme Court and every such person so requested shall, while so sitting and acting, have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a judge of that court :

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a judge of that court unless he consents so to do.

**108.** The Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.

**108-A.** The Supreme Court shall sit in Delhi or at such other place or places, as the Chief Justice of India may, with the approval of the President, from time to time, appoint.

**109.** Subject to the provisions of this Constitution, the Supreme Court shall, to the exclusion of any other Court, have original jurisdiction in any dispute—

Original jurisdiction of the Supreme Court.

- (a) between the Government of India and one or more States, or
- (b) between the Government of India and any State or States on one side and one or more other States on the other; or
- (c) between two or more States,

if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends :

Provided that the said jurisdiction shall not extend to a dispute to which any State is a party, if the dispute arises out of any provision of a treaty, agreement, engagement, *sanad* or other similar instrument which provides that the said jurisdiction shall not extend to such dispute.

**110.** (1) An appeal shall lie to the Supreme Court from any judgment, decree or final order of a High Court in the territory of India, whether in a civil, criminal or other proceeding, if the High Court certifies that the case involves a substantial question of law as to the interpretation of this Constitution.

Appellate jurisdiction of Supreme Court in appeals from High Courts in States in certain cases

(2) Where the High Court has refused to give such a certificate, the Supreme Court may, if it is satisfied that the case involves a substantial question of law as to the interpretation of this Constitution, grant special leave to appeal from such judgment, decree or final order.

(3) Where such a certificate is given, or such leave is granted, any party in the case may appeal to the Supreme Court on the ground that any such question as aforesaid has been wrongly decided and, with the leave of the Supreme Court, on any other ground

*Explanation.*—For the purposes of this article, the expression “final order” includes an order deciding an issue which, if decided in favour of the appellant, would be sufficient for the final disposal of the case.

**111.** (1) An appeal shall lie to the Supreme Court from a judgment, decree or final order in a civil proceeding of a High Court in the territory of India if the High Court certifies—

- (a) that the amount or value of the subject-matter of the dispute in the court of first instance and still in dispute on appeal was and is not less than twenty thousand rupees or such other sum as may be specified in this behalf by Parliament by law; or
- (b) that the judgment, decree or final order involves directly or indirectly some claim or question respecting property of the like amount or value; or
- (c) that the case is a fit one for appeal to the Supreme Court;

Appellate jurisdiction of Supreme Court appeals from High Courts in the territory of India in other cases.

and, where the judgment, decree or final order appealed from affirms the decision of the court immediately below, in any case other than one referred to in clause (c), if the High Court further certifies that the appeal involves some substantial question of law:

Provided that no appeal shall lie to the Supreme Court from the judgment, decree or order of one judge of a High Court or of one judge of a Division Court thereof, or of two or more judges of a High Court, or of a Division Court constituted by two or more judges of a High Court, where such judges are equally divided in opinion and do not amount in number to a majority of the whole of the judges of the High Court at the time being.

(2) Notwithstanding anything contained in article 110 of this Constitution, any party appealing to the Supreme Court under clause (1) of this article may urge as one of the grounds in such appeal that a substantial question of law as to the interpretation of this Constitution has been wrongly decided.

**111A.** (1) The Supreme Court shall have power to entertain and hear appeals from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India—

Appellate jurisdiction of Supreme Court with regard to criminal matters.

- (a) if the High Court has on appeal reversed the order of acquittal of an accused person and sentenced him to death; or
- (b) if the High Court has withdrawn for trial before itself any case from any court subordinate to its authority and has in such trial convicted the accused person and sentenced him to death; or
- (c) if the High Court certifies that the case is a fit one for appeal to the Supreme Court:

Provided that an appeal under sub-clause (c) of this clause shall lie subject to such rules as may from time to time be made by the Supreme Court and to such conditions as the High Court may establish or require.

(2) Parliament may by law confer on the Supreme Court any further powers to entertain and hear appeals from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India subject to such conditions and limitations as may be specified in such law.

**112.** The Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree or final order in any cause or matter, passed or made by any court or tribunal in the territory of India.

**112-A.** Subject to the provisions of any law made by Parliament or any rule made under article 121 of this Constitution, the Supreme Court shall have power to review any judgment pronounced or order passed by it.

Special leave  
to appeal by  
the Supreme  
Court.

Review of  
judgments or  
orders by the  
Supreme  
Court.

**113.** [Deleted.]

**114.** (1) The Supreme Court shall have such further jurisdiction and powers with respect to any of the matters in the Union List as Parliament may by law confer.

Enlargement  
of the juris-  
diction of the  
Supreme  
Court.

(2) The Supreme Court shall have such further jurisdiction and powers with respect to any matter as the Government of India and any State may by special agreement confer, if Parliament by law provides for the exercise of such jurisdiction and powers by the Supreme Court.

**115.** Parliament may, by law, confer on the Supreme Court power to issue directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for any purposes other than those mentioned in clause (2) of article 25 of this Constitution.

**116.** Parliament may by law make provision for conferring upon the Supreme Court such supplemental powers not inconsistent with any of the provisions of this Constitution as may appear to be necessary or desirable for the purpose of enabling the court more effectively to exercise the jurisdiction conferred upon it by or under this Constitution.

**117.** The law declared by the Supreme Court shall be binding on all courts within the territory of India.

Law declared  
by Supreme  
Court to  
be binding  
on all courts.

**118.** (1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament.

(2) Subject to the provisions of any law made in this behalf by Parliament the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself.

**119.** If at any time it appears to the President that a question of law or fact has arisen, or is likely to arise, which is of such a nature and such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to that court for consideration and the court may, after such hearing as it thinks fit, report to the President its opinion thereon.

**120.** All authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court.

Power of  
President  
to consult  
Supreme  
Court.

Civil and ju-  
dicial autho-  
rities to act  
in aid of the  
Supreme  
Court.

**121.** (1) Subject to the provisions of any law made by Parliament, the Supreme Court may from time to time, with the approval of the President, make rules for regulating generally the practice and procedure of the Court including—

- (a) rules as to the persons practising before the court;
- (b) rules as to the procedure for hearing appeals and other matters including the time within which appeals to the Court are to be entered;
- (bb) rules as to the procedure for the review of any judgment pronounced or order passed by the Court including the time within which applications to the Court for such review are to be entered;
- (c) rules as to the costs of and incidental to any proceedings in the Court and as to the fees to be charged in respect of proceedings therein;
- (d) rules as to the granting of bail;
- (e) rules as to stay of proceedings; and
- (f) rules providing for the summary determination of any appeal which appears to the Court to be frivolous or vexatious or brought for the purpose of delay.

(2) Subject to the provisions of the next succeeding clause, rules made under this article may fix the minimum number of judges who are to sit for any purpose, and may provide for the powers of single judges and Division Courts.

Rules of  
Court, etc.

(2a) The minimum number of judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution or for the purpose of hearing any reference under article 119 of this Constitution shall be five:

Provided that where the Court hearing an appeal under article 111 of this Constitution consists of less than five judges and in the course of the hearing of the appeal the Court is satisfied that the appeal involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the appeal, such Court shall refer the question to a Court constituted under this clause for opinion and shall on receipt of the opinion dispose of the appeal in conformity with such opinion.

(3) No judgment shall be delivered by the Supreme Court save in open court, and no report shall be made under article 119 of this Constitution save in accordance with an opinion also delivered in open court.

(4) No judgment and no such opinion shall be delivered by the Supreme Court save with the concurrence of a majority of the judges present at the hearing of the case, but nothing in this clause shall be deemed to prevent a judge who does not concur from delivering a dissenting judgment or opinion.

**122.** (1) Appointments of officers and servants of the Supreme Court shall be made by the Chief Justice of India or such other judge or officer of the court as he may direct : Officers and  
servants and  
the expenses  
of the Sup-  
reme Court.

Provided that the President may by rule require that in such cases as may be specified in the rule, no person not already attached to the court shall be appointed to any office connected with the court, save after consultation with the Union Public Service Commission.

(2) Subject to the provisions of any law made by Parliament, the conditions of service of officers and servants of the Supreme Court shall be such as may be prescribed by rules made by the Chief Justice of India or by some other judge or officer of the court authorised by the Chief Justice of India to make rules for the purpose:

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the President.

(3) The administrative expenses of the Supreme Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the court, shall be charged upon the revenues of India, and any fees or other moneys taken by the court shall form part of those revenues

**122-A.** In this Chapter, references to any substantial question of law as to the interpretation of this Constitution shall be construed as including references to any substantial question of law as to the interpretation of the Government of India Act, 1935, or of any Order in Council or order made thereunder, or of the Indian Independence Act, 1947, or of any order made thereunder. Interpretation.

**123.** [Deleted].

## CHAPTER V—COMPTRROLLER AND AUDITOR-GENERAL OF INDIA

**124.** (1) There shall be a Comptroller and Auditor-General of India, who shall be appointed by the President by warrant under his hand and seal and shall only be removed from office in like manner and on the like grounds as a judge of the Supreme Court. Comptroller and Auditor-General of India.

(1a) Every person appointed to be the Comptroller and Auditor-General of India shall, before he enters upon his office, make and subscribe before the President or some person appointed in that behalf by him an affirmation or oath according to the form set out for the purpose in the Third Schedule.

(2) The salary, allowances and other conditions of service of the Comptroller and Auditor-General shall be such as may be determined by Parliament by law and until they are so determined shall be as specified in the Second Schedule:

Provided that neither the salary of a Comptroller and Auditor-General nor his rights in respect of leave of absence, pension or age of retirement shall be varied to his disadvantage after his appointment.

(3) The Comptroller and Auditor-General shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

(4) Subject to the provisions of any law made by Parliament, the conditions of service of members of the staff of the Comptroller and Auditor-General shall be such as may be prescribed by rules made by the Comptroller and Auditor-General:

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the President.

(5) The administrative expenses of the office of the Comptroller and Auditor-General, including all salaries, allowances and pensions payable to or in respect of the Comptroller and Auditor-General and members of his staff, shall be charged upon the revenues of India.

**125.** The Comptroller and Auditor-General shall perform such duties and exercise such powers in relation to the accounts of the Government of India, the Government of any State or other authority as are or may be prescribed by or under any law made by Parliament.

*Explanation.*—In this article, the expression “law made by Parliament” includes any law, ordinance, order, bye-law, rule or regulation passed or made before the commencement of this Constitution and for the time being in force in the territory of India.

**126.** The accounts of the Government of India shall be kept in such form as the Comptroller and Auditor-General of India may, with the approval of the President, prescribe and, in so far as the Comptroller and Auditor-General of India may, with the like approval, give any directions with regard to the methods or principles in accordance with which any accounts of the Government of any State ought to be kept, it shall be the duty of the Government of the State to cause accounts to be kept accordingly.

**127.** The reports of the Comptroller and Auditor-General of India relating to the accounts of the Government of India shall be submitted to the President, who shall cause them to be laid before each House of Parliament.

## PART VI

### THE STATES IN PART I OF THE FIRST SCHEDULE

#### CHAPTER I—General

**128.** In this Part, unless the context otherwise requires, the expression "State" means a State for the time being specified in Part I of the First Schedule. Definition

#### CHAPTER II—The Executive THE GOVERNOR

**129.** There shall be a Governor for each State. Governors of States.

**130.** (1) The executive power of the State shall be vested in the Governor and may be exercised by him in accordance with the Constitution and the law. Executive power of States.

(2) Nothing in this article shall—

- (a) be deemed to transfer to the Governor any functions conferred by any existing law on any other authority; or
- (b) prevent Parliament or the Legislature of the State from conferring by law functions on any authority subordinate to the Governor.

**131.** The Governor of a State shall be appointed by the President by warrant under his hand and seal. Appointment of Governor.

**132.** (1) The Governor shall hold office during the pleasure of the President. Term of office of Governor.

(2) The Governor may, by writing under his hand addressed to the President, resign his office.

(3) Subject to the foregoing provisions of this article, a Governor shall hold office for a term of five years from the date on which he enters upon his office:

Provided that a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

**133.** [Deleted.]

**134.** No person shall be eligible for appointment as Governor unless he is a citizen of India and has completed the age of thirty-five years. Qualifications for appointment as Governor.

**135.** (1) The Governor shall not be a member of either House of Parliament or of a House of the Legislature of any State for the time being specified in the First Schedule, and if a member of either House of Parliament or of a House of the Legislature of any such State be appointed Governor, he shall be deemed to have vacated his seat in that House, on the date on which he enters upon his office as Governor.

(2) The Governor shall not hold any other office of profit.

(3) The Governor shall have an official residence, and there shall be paid to the Governor such emoluments and allowances as may be determined by the Legislature of the State by law and, until provision in that behalf is so made, such emoluments and allowances as are specified in the Second Schedule.

(4) The emoluments and allowances of the Governor shall not be diminished during his term of office.

**136.** Every Governor and every person discharging the functions of the Governor shall before entering upon his office make and subscribe in the presence of the Chief Justice of the High Court exercising jurisdiction in relation to the State or, in his absence, the seniormost judge of that court available an affirmation or oath in the following form, that is to say:—

"I, A.B., do swear in the name of God that I solemnly affirm

will faithfully execute the office of Governor (or discharge the functions of the Governor) of \_\_\_\_\_ (name of the State) and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of \_\_\_\_\_ (name of the State)."

**137.** [Deleted.]

**138.** The President may make such provision as he thinks fit for the discharge of the functions of the Governor of a State in any contingency not provided for in this Chapter.

Power of the President to provide for the discharge of the functions of the Governor in certain contingencies.

**139.** [Deleted.]

**140.** [Deleted.]

**141.** The Governor of a State shall have the power to grant pardons, reprieves, respites or remissions of punishment, or to suspend, remit or commute the sentence, of any person convicted of any offence against any law relating to a matter with respect to which the Legislature of the State has power to make laws.

Power of Governor to grant pardons, etc., and to suspend, remit or commute sentences in certain cases.

**142.** Subject to the provisions of this Constitution, the executive power of each State shall extend to the matters with respect to which the Legislature of the State has power to make laws.

Extent of executive power of State.

### Council of Ministers

**143.** (1) There shall be a Council of ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion.

Council of ministers to aid and advise Governor.

(2) If any question arises whether any matter is or is not a matter as respects which the Governor is by or under this Constitution required to act in his discretion, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion.

(3) The question whether any, and if so what, advice was tendered by ministers to the Governor shall not be inquired into in any court.

**144.** (1) The Chief Minister shall be appointed by the Governor and the other ministers shall be appointed by the Governor on the advice of the Chief Minister and the ministers shall hold office during the pleasure of the Governor:

Provided that in the States of Bihar, Central Provinces and Berar and Orissa there shall be a minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work.

(1a) The Council of ministers shall be collectively responsible to the Legislative Assembly of the State.

(2) Before a minister enters upon his office, the Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

(3) A minister who, for any period of six consecutive months, is not a member of the Legislature of the State shall at the expiration of that period cease to be a minister.

(4) In the choice of his ministers and in the exercise of his other functions under this Constitution the Governor shall be generally guided by the Instructions set out in the Fourth Schedule, but the validity of anything done by the Governor shall not be called in question on the ground that it was done otherwise than in accordance with such Instructions.

(5) The salaries and allowances of ministers shall be such as the Legislature of the State may from time to time by law determine and, until the Legislature of the State so determine, shall be as specified in the Second Schedule.

### The Advocate-General for the State

**145.** (1) The Governor of each State shall appoint a person who is qualified to be appointed a judge of a High Court, to be Advocate-General for the State.

(2) It shall be the duty of the Advocate-General to give advice to the Government of the State upon such legal matters and to perform such other duties of a

legal character as may from time to time be referred or assigned to him by the Governor, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.

(3) The Advocate-General shall hold office during the pleasure of the Governor and shall receive such remuneration as the Governor may determine.

### CONDUCT OF GOVERNMENT BUSINESS

**146.** (1) All executive action of the Government of a State shall be expressed to be taken in the name of the Governor.

Conduct of business of the Government of a State.

(2) Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor.

**147.** It shall be the duty of the Chief Minister of each State—

- (a) to communicate to the Governor of the State all decisions of the Council of ministers relating to the administration of the affairs of the State and proposals for legislation;
- (b) to furnish such information relating to the administration of the affairs of the State and proposals for legislation as the Governor may call for; and
- (c) if the Governor so requires, to submit for the consideration of the Council of ministers any matter on which a decision has been taken by a minister but which has not been considered by the Council.

### CHAPTER III.—THE STATE LEGISLATURE

#### General

**148.** (1) For every State there shall be a Legislature which shall consist of the Governor: and

Constitution of Legislatures in States in part I of the First Schedule.

(a) in the States of Madras, Bombay, West Bengal, the United Provinces, Bihar and East Punjab, two Houses,

(b) in other States, one House.

(2) Where there are two Houses of the Legislature of a State, one shall be known as the Legislative Council and the other as the Legislative Assembly and where there is only one House, it shall be known as the Legislative Assembly.

**149.** (1) Subject to the provisions of articles 294 and 295 of this Constitution the Legislative Assembly of each State shall be composed of members chosen by direct election.

Composition  
of the Legis-  
lative  
Assemblies.

(2) The election shall be on the basis of adult suffrage; that is to say, every citizen who is not less than twenty-one years of age and is not otherwise disqualified under this Constitution or any law made by the Legislature of the State on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice shall be entitled to be registered as a voter at such elections.

(3) The representation of each territorial constituency in the Legislative Assembly of a State shall be on the basis of the population of that constituency as ascertained at the last preceding census of which the relevant figures have been published and shall, save in the case of the autonomous districts of Assam and the constituency comprising the cantonment and municipality of Shillong, be on a scale of not more than one representative for every seventy-five thousand of the population:

Provided that the total number of members in the Legislative Assembly of a State shall in no case be more than five hundred or less than sixty.

(3a) The ratio between the number of members to be allotted to each territorial constituency in a State and the population of that constituency as ascertained at the last preceding census of which the relevant figures have been published shall, so far as practicable, be the same throughout the State.

(4) Upon the completion of each census, the representation of the several territorial constituencies in the Legislative Assembly of each State shall, subject to the provisions of article 289 of this Constitution, be readjusted by such authority, in such manner and with effect from such date as the Legislature of the State may, by law determine:

Provided that such readjustment shall not affect representation to the Legislative Assembly until the dissolution of the then existing Assembly.

**150. [Held over.]**

**151.** (1) Every Legislative Assembly of every State, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and the expiration of the said period of five years shall operate as a dissolution of the Assembly:

Duration of  
State Legis-  
latures.

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

(2) The Legislative Council of a State shall not be subject to dissolution, but as nearly as may be one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by the Legislature of the State by law.

**152.** A person shall not be qualified to be chosen to fill a seat in the Legislature of a State unless he—

Qualification  
for member-  
ship of the  
State Legisla-  
ture.

- (a) is a citizen of India;
- (b) is, in the case of a seat in a Legislative Assembly, not less than twenty-five years of age and, in the case of a seat in the Legislative Council, not less than thirty years of age, and
- (c) possesses such other qualifications as may be prescribed in this behalf by or under any law made by the Legislature of the State.

**153.** (1) The House or Houses of the Legislature of the State shall be summoned to meet twice at least in every year, and six months shall not intervene between their last sitting in one session and the date appointed for their first sitting in the next session.

Sessions of  
the State  
Legislature,  
prorogation  
and dissolu-  
tion.

(2) Subject to the provisions of this article, the Governor may from time to time—

- (a) summon the Houses or either House to meet at such time and place as he thinks fit;
- (b) prorogue the House or Houses;
- (c) dissolve the Legislative Assembly.

**154.** (1) The Governor may address the Legislative Assembly or in the case of a State having a Legislative Council, either House of the Legislature of the State, or both Houses assembled together, and may for that purpose require the attendance of members.

(2) The Governor may send messages to the House or Houses of the Legislature of the State whether with respect to a Bill then pending in the Legislature or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

**155.** (1) At the commencement of every session, the Governor shall address the Legislative Assembly or in the case of a State having a Legislative Council, both Houses assembled together and inform the Legislature of the cause of its summons

(2) Provision shall be made by the rules regulating the procedure of either House for the allotment of time for a discussion of the matters referred to in such address and for the precedence of such discussion over other business of the House.

**156.** Every minister and the Advocate-General for a State shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly of the State or, in the case of a State having a Legislative Council, both Houses and any joint sitting of the Houses, and to speak in, and otherwise to take part in the proceedings of, any committee of the Legislature of which he may be named a member, but shall not, by virtue of this article, be entitled to vote.

### Officers of the State Legislature

**157.** Every Legislative Assembly of a State shall, as soon as may be, choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof, and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be Speaker or Deputy Speaker, as the case may be.

**158.** A member holding office as Speaker or Deputy Speaker of an Assembly—

- (a) shall vacate his office if he ceases to be a member of the Assembly;
- (b) may at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and
- (c) may be removed from his office for incapacity or want of confidence by a resolution of the Assembly passed by a majority of all the then members of the Assembly:

Provided that no resolution for the purpose of clause (c) of this article shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that, whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

**159.** (1) While the office of Speaker is vacant the duties of the office shall be performed by the Deputy Speaker, or if the office of Deputy Speaker is also vacant, by such member of the Assembly as the Governor may appoint for the purpose.

(2) During the absence of the Speaker from any sitting of the Assembly, the Deputy Speaker or, if he is also absent such person as may be determined by the rules of procedure of the Assembly, or, if no such person is present, such other person as may be determined by the Assembly, shall act as Speaker.

**159-A.** At any sitting of the Legislative Assembly of a State, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside, and the provisions of clause (2) of the last preceding article shall apply in relation to every such sitting.

Vacation and  
resignation of  
and removal  
from the  
office of,  
Speaker and  
Deputy  
Speaker.

Power of the  
Deputy  
Speaker or  
other persons  
to perform  
the duties of  
the office of  
or to act as,  
Speaker.

The Speaker  
and the  
Deputy  
Speaker not  
to preside  
at sittings  
of the Assem-  
bly while a  
resolution for  
his removal  
from office  
is under con-  
sideration.

as they apply in relation to a sitting from which the Speaker or, as the case may be, the Deputy Speaker, is absent.

**160.** The Legislative Council of every State having such Council, shall, as soon as may be, choose two members of the Council to be respectively Chairman and Deputy Chairman thereof and, so often as the office of Chairman or Deputy Chairman becomes vacant, the Council shall choose another member to be Chairman or Deputy Chairman, as the case may be.

**161.** A member holding office as Chairman or Deputy Chairman of a Legislative Council—

(a) shall vacate his office if he ceases to be a member of the Council:

(b) may at any time by writing under his hand addressed, if such member is the Chairman, to the Deputy Chairman, and if such member is the Deputy Chairman, to the Chairman, resign his office; and

(c) may be removed from his office for incapacity or want of confidence by a resolution of the Council passed by a majority of all the then members of the Council :

The Chairman  
and Deputy  
Chairman of  
the Legisla-  
tive Council.

Vacation and  
resignation  
of, and remo-  
val from, the  
office of  
Chairman  
and Deputy  
Chairman.

Provided that no resolution for the purpose of clause (c) of this article shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

**162.** (1) While the office of Chairman is vacant, the duties of the office shall be performed by the Deputy Chairman or if the office of Deputy Chairman is also vacant by such member of the Council as the Governor may appoint for the purpose.

Power of the  
Deputy  
Chairman or  
other persons  
to perform  
the duties  
of the office  
of, or to act  
as, Chairman

(2) During the absence of the Chairman from any sitting of the Council, the Deputy Chairman or, if he is also absent such person as may be determined by the rules of procedure of the Council, or, if no such person is present, such other person as may be determined by the Council, shall act as Chairman.

**162-A.** At any sitting of the Legislative Council of a State, while any resolution for the removal of the Chairman from his office is under consideration, the Chairman, or while any resolution for the removal of the Deputy Chairman from his office is under consideration, the Deputy Chairman shall not, though he is present, preside, and the provisions of clause (2) of the last preceding article shall apply in relation to every such sitting as they apply in relation to a sitting from which the Chairman or, as the case may be, the Deputy Chairman, is absent.

The Chairman or the Deputy Chairman not to preside at sittings of the Legislative Council while a resolution for his removal from office is under consideration.

**163.** There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly and to the Chairman and the Deputy Chairman of the Legislative Council such salaries and allowances as may be respectively fixed by the Legislature of the State by law, and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule.

Salaries and allowances of the Speaker and Deputy Speaker and the Chairman and Deputy Chairman.

### Conduct of Business

**164.** (1) Save as otherwise provided in this Constitution, all questions at any sitting of a House or joint sitting of two Houses of the Legislature of a State shall be determined by a majority of votes of the members present and voting, other than the Speaker or Chairman or person acting as such.

Voting in Houses; power of Houses to act notwithstanding vacancies and quorum.

The Speaker or Chairman or person acting as such shall not vote in the first instance but shall have and exercise a casting vote in the case of an equality of votes.

(2) A House of the Legislature of a State shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislature of a State shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do, sat or voted or otherwise took part in the proceedings.

(3) If at any time during a meeting of the Legislative Assembly or the Legislative Council of a State there is

no quorum, it shall be the duty of the Speaker or Chairman or person acting as such either to adjourn the House or to suspend the meeting until there is a quorum.

The quorum shall be ten members or one-sixth of the total number of members of the House, whichever is greater.

### **Disqualifications of Members**

**165.** Every member of the Legislative Assembly or <sup>Affirmation  
or oath by  
members.</sup> the Legislative Council of a State shall, before taking his seat, make and subscribe before the Governor or some person appointed in this behalf by him, an affirmation or oath according to the form set out for the purpose in the Third Schedule.

**166.** (1) No person shall be a member of both Houses of the Legislature of a State and provision shall be made by the Legislature of the State by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other. <sup>Vacation of  
seats.</sup>

(1a) No person shall be a member of the Legislatures of two or more States and if a person is chosen a member of the Legislatures of two or more States, then, at the expiration of such period as may be specified in rules made by the President, that person's seat in the Legislatures of all the States shall become vacant, unless he has previously resigned his seat in the Legislatures of all but one of the States.

(2) [Deleted.]

(3) If a member of a House of the Legislature of a State—

(a) becomes subject to any of the disqualifications mentioned in clause (1) of the next succeeding article; or

(b) resigns his seat by writing under his hand addressed to the Speaker or the Chairman, as the case may be,

his seat shall thereupon become vacant.

(4) If for a period of sixty days a member of a House of the Legislature of a State is without permission of the House absent from all meetings thereof, the House may declare his seat vacant :

Provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days.

**167.** (1) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly or Legislative Council of a State—

Disqualifications for membership.

- (a) if he holds any office of profit under the Government of India or the Government of any State for the time being specified in the First Schedule other than an office declared by the Legislature of the State by law not to disqualify its holder;
- (b) if he is of unsound mind and stands so declared by a competent court;
- (c) if he is an undischarged insolvent;
- (d) if he has ceased to be a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State;
- (e) if he is so disqualified by or under any law made by the Legislature of the State.

(2) For the purposes of this article, a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State for the time being specified in the First Schedule by reason only that he is a minister either for India or for any such State.

**167A.** (1) If any question arises as to whether a member of a House of the Legislature of a State has become subject to any of the disqualifications mentioned in clause (1) of the last preceding article, the question shall be referred for the decision of the Governor and his decision shall be final.

Decision on  
questions  
as to dis-  
qualification  
of members

(2) Before giving any decision on any such question, the Governor shall obtain the opinion of the Election Commission and shall act according to such opinion.

**168.** If a person sits or votes as a member of the Legislative Assembly or the Legislative Council of a State before he has complied with the requirements of article 165 of this Constitution, or when he knows that he is not qualified or that he is disqualified for membership thereof or that he is prohibited from so doing by the provisions of any law made by the Legislature of the State, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the State.

Penalty for sitting and voting before making declaration under article 165 or when not qualified or when disqualified.

### Privileges and Immunities of Members

**169.** (1) Subject to the rules and standing orders Privileges, etc. of regulating the procedure of the Legislature, there shall members be freedom of speech in the Legislature of every State.

(2) No member of the Legislature of a State shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of a House of such a Legislature of any report, paper, votes or proceedings.

(3) In other respects the privileges and immunities of members of a House of the Legislature of a State shall be such as may from time to time be defined by the Legislature by law and until so defined, shall be such as are enjoyed by the members of the House of Commons of the Parliament of the United Kingdom at the commencement of this Constitution.

(4) The provisions of clauses (1), (2) and (3) of this article shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise take part in the proceedings of, a House of the Legislature of a State or any committee thereof as they apply in relation to members of that Legislature.

**170.** Members of the Legislative Assembly and the Salaries and allowances of members. Legislative Council of a State shall be entitled to receive such salaries and allowances as may from time to time

be determined by the Legislature of the State by law, and until provision in that respect is so made, salaries and allowances at such rates and upon such conditions as were immediately before the date of commencement of this Constitution applicable in the case of members of the Provincial Legislative Assembly for that State.

### **Legislative Procedure**

**171.** (1) Subject to the provisions of articles 173 and 182 of this Constitution with respect to Money Bills and other financial Bills, a Bill may originate in either House of the Legislature of a State which has a Legislative Council.

(2) Subject to the provisions of articles 172 and 173 of this Constitution, a Bill shall not be deemed to have been passed by the Houses of the Legislature of a State having a Legislative Council unless it has been agreed to by both Houses either without amendment or with such amendments only as are agreed to by both Houses.

(3) A Bill pending in the Legislature of a State shall not lapse by reason of the prorogation of the House or Houses thereof.

(4) A Bill pending in the Legislative Council of a State which has not been passed by the Legislative Assembly shall not lapse on a dissolution of the Assembly.

(5) A Bill which is pending in the Legislative Assembly of a State, or which having been passed by the Legislative Assembly is pending in the Legislative Council, shall lapse on a dissolution of the Assembly.

[Article 172 held over.]

**173.** (1) A Money Bill shall not be introduced in a Legislative Council.

Special  
Procedure in  
respect of  
Money  
Bills.

(2) After a Money Bill has been passed by the Legislative Assembly of a State having a Legislative Council, it shall be transmitted to the Legislative Council for its recommendations, and the Legislative Council shall within a period of fourteen days from the date of its receipt of the Bill return the Bill to the Legislative Assembly with its recommendations, and the Legislative Assembly may thereupon either accept or reject all or any of the recommendations of the Legislative Council.

(3) If the Legislative Assembly accepts any of the recommendations of the Legislative Council, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Legislative Council and accepted by the Legislative Assembly.

(4) If the Legislative Assembly does not accept any of the recommendations of the Legislative Council, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by the Legislative Assembly without any of the amendments recommended by the Legislative Council.

(5) If a Money Bill passed by the Legislative Assembly and transmitted to the Legislative Council for its recommendations is not returned to the Legislative Assembly within the said period of fourteen days it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the Legislative Assembly.

**174.** (1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely :—

(a) the imposition, abolition, remission, alteration or regulation of any tax;

(b) the regulation of the borrowing of money or the giving of any guarantee by the State, or the

~~or the~~ amendment of the law with respect to any financial obligations undertaken or to be undertaken by the State;

- (c) the custody of the Consolidated Fund or the Contingency Fund of the State, the payment of moneys into or the withdrawal of moneys from any such fund;
- (d) the appropriation of moneys out of the Consolidated Fund of the State;
- (e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of the State, or the increasing of the amount of any such expenditure;
- (f) the receipt of moneys on account of the Consolidated Fund of the State or the custody or issue of such moneys or the audit of the accounts of the State; or
- (g) any matter incidental to any of the matters specified in items (a) to (f) of this clause.

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill introduced in the Legislature of a State which has a Legislative Council is a Money Bill or not, the decision of the Speaker of the Legislative Assembly of such State thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Legislative Council under the last preceding article and when it is presented to the Governor for assent under the next succeeding article, the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill

**175.** [Held over.]

**176.** [Held over.]

### Procedure in Financial Matters

**177.** (1) The Governor shall in respect of every financial year cause to be laid before the House or Houses of the Legislature of the State a statement of the estimated receipts and expenditure of the State for that year, in this Part of this Constitution referred to as the "annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

- (a) the sums required to meet expenditure described by this Constitution as expenditure charged upon the Consolidated Fund of the State; and
- (b) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of the State;

and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the Consolidated Fund of each State—

- (a) the emoluments and allowances of the Governor and other expenditure relating to his office;
- (b) the salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly, and in the case of a State having a Legislative Council, also of the Chairman and the Deputy Chairman of the Legislative Council;
- (c) debt charges for which the State is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;
- (d) expenditure in respect of the salaries and allowances of judges of any High Court;

- (e) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;
- (f) any other expenditure declared by this Constitution or by the Legislature of the State by law to be so charged.

**178.** (1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of a State shall not be submitted to the vote of the Legislative Assembly, but nothing in this clause shall be construed as preventing the discussion in the Legislature of those estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly, and the Legislative Assembly shall have power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the Governor.

**179.** (1) As soon as may be after the grants under the last preceding article have been made by the Assembly there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State all moneys required to meet—

- (a) the grants so made by the Assembly; and
- (b) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the statement previously laid before the House or Houses.

(2) No amendment shall be proposed to any such Bill in the House or either House of the Legislature of the State which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of the State, and the decision of the person presiding as to the amendments which are admissible under this clause shall be final.

(3) Subject to the provisions of the next two succeeding articles no money shall be withdrawn from the Consolidated Fund of the State except under appropriation made by law passed in accordance with the provisions of this article.

**180.** (1) The Governor shall—

- (a) if the amount authorised by any law made in accordance with the provisions of article 179 of this Constitution to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or
- (b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year,

cause to be laid before the House or the Houses of the Legislature of the State another statement showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly of the State a demand for such excess, as the case may be.

(2) The provisions of the last three preceding articles shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure or grant.

**181.** (1) Notwithstanding anything contained in the foregoing provisions of this Chapter the Legislative Assembly of a State shall have power—

- (a) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in article 178 of this Constitution for the voting of such grant

Supplementary, additional or excess grants.

Votes on account, votes on credit and exceptional grants.

and the passing of the law in accordance with the provisions of article 179 of this Constitution in relation to that expenditure;

- (b) to make a grant for meeting an unexpected demand upon the resources of the State when on account of the magnitude or the indefinite character of the service the demand cannot be stated with the details ordinarily given in an annual financial statement;
- (c) to make an exceptional grant which forms no part of the current service of any financial year;

and the Legislature of the State shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of the State for the purposes for which the said grants are made.

(2) The provisions of articles 178 and 179 of this Constitution shall have effect in relation to the making of any grant under clause (1) of this article and to any law to be made under that clause as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure.

**182.** (1) A Bill or amendment making provision for <sup>special</sup> any of the matters specified in items (a) to (f) of clause <sup>provisions as to finan-</sup> (1) of article 174 of this Constitution shall not be introduced or moved except on the recommendation of the Governor, and a Bill making such provision shall not be introduced in a Legislative Council :

Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for

licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of a State shall not be passed by a House of the Legislature of the State unless the Governor has recommended to that House the consideration of the Bill.

### **Procedure Generally**

**183.** (1) A House of the Legislature of a State may make rules for regulating, subject to the provisions of this Constitution, its procedure and the conduct of its business. Rules of Procedure.

(2) Until rules are made under clause (1) of this article, the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Provincial Legislature for the State shall have effect in relation to the Legislature of that State subject to such modifications and adaptations as may be made therein by the Speaker of the Legislative Assembly, or the Chairman of the Legislative Council, as the case may be.

(3) In a State having a Legislative Council the Governor, after consultation with the Speaker of the Legislative Assembly and the Chairman of the Legislative Council may make rules as to the procedure with respect to joint sittings of, and communications between, the two Houses.

(4) At a joint sitting of the two Houses the Speaker of the Legislative Assembly, or in his absence such person as may be determined by rules of procedure made under clause (3) of this article shall preside.

**183-A.** The Legislature of a State may, for the purpose of the timely completion of the financial business, regulate by law the procedure of, and the conduct of business in, the House or Houses of the Legislature of the State in relation to any financial matter or to any

 Regulation by  
 law of proced-  
 ure in the  
 Legislature of  
 the State in  
 relation to  
 financial busi-  
 ness.

Bill for the appropriation of moneys out of the Consolidated Fund of the State, and, if and in so far as the provision of any law so made is inconsistent with any rule made by the House or either House of the Legislature of the State under the last preceding article or with any rule or standing order having effect in relation to the Legislature of the State under clause (2) of that article, such provision shall prevail.

**184.** [*Held over.*]

**185.** No discussion shall take place in the Legislature of a State with respect to the conduct of any judge of the Supreme Court or of a High Court in the discharge of his duties.

**186.** (1) The Validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or other member of the Legislature of a State in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in the Legislature shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

#### CHAPTER IV—Legislative Power of the Governor

**187.** (1) If at any time, except when the Legislative Assembly of a State is in session, or where there is a Legislative Council in a State, except when both Houses of the Legislature are in session, the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require:

Power of Governor to Promulgate Ordinances during recess of Legislature.

Provided that the Governor shall not, without instructions from the President, promulgate any such Ordinance if an Act of the Legislature of the State containing the same provisions would under the provisions of this Constitution have been invalid unless, having been reserved for the consideration of the President, it had received the assent of the President.

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of the Legislature of the State assented to by the Governor, but every such Ordinance—

(a) shall be laid before the Legislative Assembly of the State, or where there is a Legislative Council in the State, before both the Houses, and shall cease to operate at the expiration of six weeks from the reassembly of the

Legislature, or if before the expiration of that period a resolution dis-approving it is passed by the Legislative Assembly and agreed to by the Legislative Council, if any, upon the passing of the resolution or, as the case may be, on the resolution being agreed to by the Council; and

(b) may be withdrawn at any time by the Governor.

*Explanation.*—Where the Houses of the Legislature of a State having a Legislative Council are summoned to re-assemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

(3) If and so far as an Ordinance under this article makes any provision which would not be valid if enacted in an Act of the Legislature of the State assented to by the Governor, it shall be void:

Provided that, for the purposes of the provisions of this Constitution relating to the effect of an Act of the Legislature of a State which is repugnant to an Act of Parliament or an existing law with respect to a matter enumerated in the Concurrent List, an Ordinance promulgated under this article in pursuance of instructions from the President shall be deemed to be an Act of the Legislature of the State which has been reserved for the consideration of the President and assented to by him.

[Articles 188 to 190 held over.]

## CHAPTER VII

### The High Courts in the States

**191.** (1) There shall be a High Court for each State. High Courts for States.

(2) For the purposes of this Constitution the High Court existing in any Province immediately before the commencement of this Constitution shall be deemed to be the High Court for the corresponding State.

(3) The provisions of this Chapter shall apply to every High Court referred to in this article.

**192.** Every High Court shall be a court of record and High Courts shall have all the powers of such a court including the to be court of record. power to punish for contempt of itself.

**192-A.** Every High Court shall consist of a Chief Constitution of High Courts. Justice and such other judges as the President may of Courts. from time to time deem it necessary to appoint:

Provided that the judges so appointed shall at no time exceed in number such maximum as the President may, from time to time, by order fix in relation to that Court.

**193.** (1) Every judge of a High Court shall be appointed by the President by a warrant under his hand and seal after consultation with the Chief Justice of India, the Governor of the State, and, in the case of appointment of a judge other than the Chief Justice, the Chief Justice of the High Court of the State, and shall hold office until he attains the age of sixty years: Appointment, and conditions of the office, of a judge of a High Court.

Provided that—

(a) a judge may, by writing under his hand addressed to the Governor, resign his office;

(b) a judge may be removed from his office by the President in the manner provided in clause (4) of article 103 of this Constitution for the removal of a judge of the Supreme Court;

- (c) the office of the judge shall be vacated by his being appointed by the President to be a judge of the Supreme Court or of any other High Court in any State for the time being specified in the First Schedule.
- (2) A person shall not be qualified for appointment as a judge of a High Court unless he is a citizen of India and—
- (a) has held for at least ten years a judicial office in the territory of India; or
  - (b) has been for at least ten years an advocate of a High Court in any State for the time being specified in the First Schedule or of two or more such courts in succession.

*Explanation.*—For the purposes of this clause—

- (a) ~~In~~<sup>in</sup> computing the period during which a person has been an advocate of a High Court, there shall be included any period during which a person held judicial office after he became an advocate;
- (b) in computing the period during which a person has held judicial office in the territory of India or been an advocate of a High Court, there shall be included any period before the commencement of this Constitution during which he held judicial office in any area which was comprised before the fifteenth day of August, 1947, within India as defined by the Government of India Act, 1935, or has been an advocate of any High Court in any such area, as the case may be.

194. The provisions of clauses (4) and (5) of article 103 of this Constitution shall apply in relation to a High Court as they apply in relation to the Supreme Court with the substitution of references to the High Court for references to the Supreme Court.

Application  
of certain  
provisions  
relating to  
Supreme  
Court to High  
Courts.

**195.** Every person appointed to be a judge of a High Court in a State shall, before he enters upon his office, make and subscribe before the Governor of the State or some person appointed in that behalf by him an affirmation or oath according to the form set out for the purpose in the Third Schedule.

**196.** No person who has held office as a judge of a High Court after the commencement of this Constitution shall plead or act in any court or before any authority within the territory of India.

**197.** [Held over]

**198.** When the office of Chief Justice of a High Court is vacant or when any such Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other judges of the court as the President may appoint for the purpose.

**199. [Deleted.]**

**200.** Notwithstanding anything contained in this Chapter, the Chief Justice of a High Court may at any time, with the previous consent of the President, request any person who has held the office of a judge of that court to sit and act as a judge of the court, and every such person so requested shall, while so sitting and acting, have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be a judge of that court:

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a judge of that court unless he consents so to do.

**201.** Subject to the provisions of this Constitution and to any provisions of any law of the appropriate Legislature made by virtue of the powers conferred on that Legislature by this Constitution, the jurisdiction of, and the law administered in, any existing High Court, and the respective powers of the judges thereof in relation to the administration of justice in the court, including any power to make rules of court and to regulate the sittings of the court and of members thereof sitting alone or in division courts, shall be the same as immediately before the commencement of this Constitution:

Provided that any restriction to which the exercise of original jurisdiction of any of the High Courts with respect to any matter concerning the revenue or concerning any act ordered or done in the collection thereof was subject immediately before the commencement of this Constitution shall no longer apply to the exercise of such jurisdiction.

**202.** (1) Notwithstanding anything contained in article 25 of this Constitution, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue directions, orders or writs including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, for the enforcement of any of the rights conferred by Part III of this Constitution and for any other purpose.

(2) The power conferred on a High Court by clause (1) of this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 25 of this Constitution.

**203.** (1) Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.

(2) Without prejudice to the generality of the foregoing provision, the High Court may—

- (a) call for returns from such courts;
- (b) [Deleted].
- (c) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts; and
- (d) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts.

(3) The High Court may also settle tables of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practising therein:

Provided that any rules made, forms prescribed or tables settled under clause (2) or clause (3) of this article shall not be inconsistent with the provisions of any law for the time being in force, and shall require the previous approval of the Governor.

**204.** If the High Court is satisfied that a case pending in a court subordinate to it involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the case, it shall withdraw the case and may—

Transfer of  
certain cases  
to High  
Court.

(a) either dispose of the case itself, or

(b) determine the said question of law and return the case to the court from which the case has been so withdrawn together with a copy of its judgment on such question, and the said court shall on receipt thereof proceed to dispose of the case in conformity with such judgment.

**205.** (1) Appointments of officers and servants of a High Court shall be made by the Chief Justice of the Court or such other judge or officer of the Court as he may direct :

Officers  
and ser-  
vants and  
the ex-  
penses of  
High Courts.

Provided that the Governor of the State in which the High Court has its principal seat may by rule require that, in such cases as may be specified in the rule, no person not already attached to the Court shall be appointed to any office connected with the Court save after consultation with the State Public Service Commission.

. (2) Subject to the provisions of any law made by the Legislature of the State, the conditions of service of officers and servants of a High Court shall be such as may be prescribed by rules made by the Chief Justice of the Court or by some other judge or officer of the Court authorised by the Chief Justice to make rules for the purpose :

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor of the State in which the High Court has its principal seat.

(3) The administrative expenses of a High Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court and the salaries and allowances of the judges of the

Court, shall be charged upon the revenues of the State, and any fees or other moneys taken by the Court shall form part of those revenues.

[Article 206 deleted.]

**207.** Parliament may by law—

- (a) extend the jurisdiction of a High Court to, or
- (b) exclude the jurisdiction of a High Court from,

Extension of  
or exclusion  
from the  
jurisdiction of  
High Courts

any State other than, or any area not within, the State in which the High Court has its principal seat.

**208.** Where a High Court exercises jurisdiction in relation to any area outside the State in which it has its principal seat, nothing in this Constitution shall be construed—

- (a) as empowering the Legislature of the State in which the court has its principal seat to increase, restrict or abolish that jurisdiction;
- (b) as empowering the Legislature of a State for the time being specified in Part I or Part III of the First Schedule in which any such area is situate, to abolish that jurisdiction; or
- (c) as preventing the Legislature having power to make laws in that behalf for any such area, from passing, subject to the provisions of clause (b) of this article, such laws with respect to the jurisdiction of the court in relation to that area as it would be competent to pass if the principal seat of the court were in that area.

**209.** Where a High Court exercises jurisdiction in relation to more than one State or in relation to a State and an area not forming part of the State—

- (a) references in this Chapter to the Governor in relation to the judges of a High Court shall be construed as references to the Governor of the State in which the court has its principal seat;

Restrictions  
on the power  
of the Legis-  
latures of  
States to  
make laws  
with respect  
to jurisdic-  
tion of a High  
Court in a  
State having  
jurisdiction  
out side that  
State.

- (b) the reference to the approval by the Governor of rules, forms and tables for subordinate courts shall be construed as a reference to the approval thereof by the Governor or the Ruler of the State in which the subordinate court is situate, or if it is situate in an area not forming part of any State for the time being specified in Part I or Part III of the First Schedule, by the President; and
- (c) references to the revenues of the State shall be construed as references to the revenues of the State in which the court has its principal seat.

*(Articles 210 to 215 held over.)*

## PART IX

### RELATIONS BETWEEN THE UNION AND THE STATES

#### CHAPTER I—Legislative Relations

#### DISTRIBUTION OF LEGISLATIVE POWERS

**216.** (1) Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State.

Extent o  
laws made  
by Parlia-  
ment and by  
the Legis-  
latures of  
States.

(2) No law made by Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation.

**217.** (1) Notwithstanding anything in the two next succeeding clauses, Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the "Union List").

Subject  
matter of  
laws made  
by Parlia-  
ment and  
by the Legis-  
latures of  
States.

(2) Notwithstanding anything in the next succeeding clause, Parliament and, subject to the preceding clause, the Legislature of any State for the time being specified in Part I or Part III of the First Schedule also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the "Concurrent List").

(3) Subject to the two preceding clauses, the Legislature of any State for the time being specified in Part I or Part III of the First Schedule has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the "State List").

(4) Parliament has power to make laws with respect to any matter for any part of the territory of India not included for the time being in Part I or Part III of the First Schedule notwithstanding that such matter is a matter enumerated in the State List.

**218.** [Deleted.]

**219.** Notwithstanding anything in this Chapter, Parliament may by law provide for the establishment of any additional courts for the better administration of laws made by Parliament or of any existing law with respect to a matter enumerated in the Union List.

Power of Parliament to provide for the establishment of certain additional courts

(*Articles 220 to 222 deleted.*)

**223.** (1) Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List.

Residuary powers of legislation.

(2) Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists.

**224.** [*Held over.*]

**225.** [*Held over.*]

**226.** (1) Notwithstanding anything in the foregoing provisions of this Chapter, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter while the resolution remains in force.

(2) A resolution passed under clause (1) of this article shall remain in force for such period not exceeding one year as may be specified therein:

Provided that if and so often as a resolution approving the continuance in force of any such resolution is passed in the manner provided in clause (1) of this article, such resolution shall continue in force for a further period of one year from the date on which under this clause it would otherwise have ceased to be in force.

(3) A law made by Parliament which Parliament would not but for the passing of a resolution under clause (1) of this article have been competent to make shall to the extent of the incompetency cease to have effect on the expiration of a period of six months after the resolution has ceased to be in force, except as respects things done or omitted to be done before the expiration of the said period.

**227.** (1) Notwithstanding anything in this Chapter, Parliament shall, while a Proclamation of Emergency is in operation, have power to make laws for the whole or any part of the territory of India with respect to any of the matters enumerated in the State List.

(2) A law made by Parliament which Parliament would not but for the issue of a Proclamation of Emergency have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period.

**228.** Nothing in articles 226 and 227 of this Constitution shall restrict the power of the Legislature of a State to make any law which under this Constitution it has power to make, but if any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament has under either of the said articles power to make, the law made by Parliament, whether passed before or after the law made by the Legislature of the State shall prevail, and the law made by the Legislature of the State shall to the extent of the repugnancy, but so long only as the law made by Parliament continues to have effect, be inoperative.

**229.** (1) If it appears to the Legislatures of two or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the States except as provided in articles 226 and 227 of this Constitution should be regulated in such States by Parliament by law, and resolutions to that effect are passed by the House or, where there are two Houses, by both the Houses of the Legislature of each of the States, it shall be lawful for Parliament to pass an Act for regulating that matter accordingly and any Act so passed shall apply to such States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or, where there are two Houses, by each of the Houses of the Legislature of that State.

(2) Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner but shall not, as respects any state to which it applies, be amended or repealed by an Act of the Legislature of that State.

**230.** Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries.

**231.** (1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of any existing law regarding a matter with respect to which Parliament has power to

Inconsistency between laws made by Parliament under articles 226 and 227 and laws made by the Legislatures of States.

Power of Parliament to legislate for one or more States by consent and adoption of such legislation by any other State.

Legislation for giving effect to international agreements.

Inconsistency between laws made by Parliament and laws made by the Legislatures of States.

make laws, then, subject to the provisions of clause (2) of this article, the law made by Parliament, whether passed before or after the law made by the Legislature of such State or, as the case may be, the existing law shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

(2) Where a law made by the Legislature of a State for the time being specified in Part I or Part III of the First Schedule with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or any existing law with respect to that matter, then the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail:

Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State.

**232.** No Act of Parliament or of a Legislature of a State for the time being specified in Part I or Part III of the First Schedule and no provision in any such Act shall be invalid by reason only that some recommendation required by this Constitution was not given, if assent to that Act was given—

(a) where the recommendation required was that of the Governor, either by the Governor or by the President;

(aa) where the recommendation required was that of the Ruler, either by the Ruler or by the President;

(b) where the recommendation required was that of the President, by the President.

## **CHAPTER II—Administrative Relations GENERAL**

**233.** The executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament and any existing laws which apply in that State and the executive power of the Union shall extend

Obligation  
of States and  
the Union.

to the giving of such directions to a State as may appear to the Government of India to be necessary for this purpose.

**234.** (1) The executive power of every State shall be ~~States not to impede or prejudice authority of the Union.~~ <sup>Duty of</sup> so exercised as not to impede or prejudice the exercise of the executive power of the Union, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.

(2) The executive power of the Union shall also extend to the giving of directions to a State as to the construction and maintenance of means of communication declared in the direction to be of national or military importance :

Provided that nothing in this clause shall be taken as restricting the power of parliament to declare highways or waterways to be national highways or national waterways or the power of the Union with respect to the highways or waterways so declared or the power of the Union to construct and maintain means of communication as part of its functions with respect to naval, military and air force works.

(3) Where by virtue of any direction given to a State as to the construction or maintenance of any means of communication under the last preceding clause of this article costs have been incurred in excess of those which would have been incurred in the discharge of the normal duties of the State if such direction had not been given, there shall be paid by the Government of India to the State such sum as may be agreed or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India in respect of the extra costs so incurred by the State,

**235.** (1) Notwithstanding anything in this Constitution, the President may with the consent of the Government of a State, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the Union extends. <sup>Power of the Union to confer powers etc. on States in certain cases.</sup>

(2) A law made by Parliament which applies in any State may, notwithstanding that it relates to a matter with respect to which the Legislature of the State has no power to make laws, confer powers and impose duties, or authorise the conferring of powers and the imposition of duties, upon the State or officers and authorities thereof.

(3) Where by virtue of this article powers and duties have been conferred or imposed upon a State or officers or authorities thereof, there shall be paid by the Government of India to the State such sum as may be agreed or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India in respect of any extra costs of administration incurred by the State in connection with the exercise of those powers and duties.

236. [*Held over.*]

237. [*Held over.*]

**238.** (1) Full faith and credit shall be given throughout the territory of India to public acts, records and judicial proceedings of the Union and of every State. Public acts, records and judicial proceedings. [ ]

(2) The manner in which and the conditions under which the acts, records and proceedings referred to in clause (1) of this article shall be proved and the effect thereof determined shall be as provided by law made by Parliament.

(3) Final judgments or orders delivered or passed by civil courts in any part of the territory of India shall be capable of execution anywhere within that territory according to law.

### Interference with Water-Supplies

**239.** If it appears to the Government of any State for the time being specified in Part I or Part III of the First Schedule that the interests of that State, or of any of the inhabitants thereof, in the water from any natural source of supply in any other State have been, or are likely to be affected prejudicially by—

- (a) any executive action or legislation taken or passed, or proposed to be taken or passed; or
- (b) the failure of any authority to exercise any of their powers,

with respect to the use, distribution or control of water from that source, the Government of the State may complain to the President.

**240.** (1) If the President receives such a complaint as aforesaid, he shall, unless he is of opinion that the issues involved are not of sufficient importance to warrant such action, appoint a Commission to investigate in accordance with such instructions as he may give to them, and to report to him on the matters to which the complaint relates, or such of those matters as he may refer to them. Decision of complaints.

(1a) The Commission shall consist of such persons having special knowledge and experience in irrigation.

engineering, administration, finance or law as the President may deem necessary for the purposes of such investigation.

(2) A Commission so appointed shall investigate the matters referred to them and present to the President a report setting out the facts as found by them and making such recommendations as they think proper.

(3) If it appears to the President upon consideration of the Commission's report that anything therein contained requires explanation, or that he needs guidance upon any point not originally referred by him to the Commission, he may again refer the matter to the Commission for further investigation and a further report.

(4) For the purposes of assisting a Commission appointed under this article in investigating any matters referred to them, the Supreme Court, if requested by the Commission so to do, shall make such orders for the purposes of the proceedings of the Commission as they may make in the exercise of the jurisdiction of the court.

(5) The report of the Commission shall include a recommendation as to the Government or persons by whom the expenses of the Commission and any costs incurred by any State or persons in appearing before the Commission are to be paid and as to the amount of any expenses or costs to be so paid; and an order made by the President under this article, in so far as it relates to expenses or costs, may be enforced as if it were an order made by the Supreme Court.

(6) After considering any report made to him by the Commission the President shall, subject as hereinafter provided, make orders in accordance with the report.

(7) If upon consideration of the Commission's report the President is of opinion that anything therein contained involves a substantial question of law, he shall refer the question to the Supreme Court under article 119 of this Constitution and on receipt of the opinion of the Supreme Court thereon shall, unless the Supreme Court has agreed with the Commission's report, return the report to the Commission together with the opinion

and the Commission shall thereupon make such modifications in the report as may be necessary to bring it in accord with such opinion and present the report as so modified to the President.

(8) Effect shall be given, in any State affected, to any order made under this article by the President, and any Act of the Legislature of a State which is repugnant to the order shall, to the extent of the repugnancy, be void.

(9) The President, on application made to him by the Government of any State affected, may at any time, if a Commission appointed as aforesaid so recommend vary any order made under this article.

**241.** If it appears to the President that the interests of any State for the time being specified in Part II of the First Schedule, or of any of the inhabitants of such a State, in the water from any natural source of supply in any State for the time being specified in Part I or Part III of the First Schedule have been or are likely to be affected prejudicially by—

- (a) any executive action or legislation taken or passed, or proposed to be taken or passed; or
- (b) the failure of any authority to exercise any of their powers,

with respect to the use, distribution or control of water from that source, he may, if he thinks fit, refer the matter to a Commission appointed in accordance with the provisions of the last preceding article and thereupon those provisions shall apply as if the State for the time being specified in Part II of the First Schedule were a State for the time being specified in Part I of the First Schedule and as if a complaint with respect to the matter had been made by the Government of that State to the President.

**242.** Notwithstanding anything in this Constitution, neither the Supreme Court nor any other court shall have jurisdiction to entertain any action or suit in

Interference  
with water  
supplies of  
States in  
Part II of the  
first Schedule

of courts ex-  
cluded.

respect of any matter, if action in respect of that matter might have been taken under any of the three last preceding articles by the Government of a State or the President.

**243.** [*Held over.*]

**244.** [*Held over.*]

**245.** [*Held over.*]

### Co-ordination between States

**246.** If at any time it appears to the President that the public interests would be served by the establishment of a Council charged with the duty of—

Provisions  
with respect  
to an Inter-  
State Council.

- (a) inquiring into and advising upon disputes which may have arisen between States;
- (b) investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States have a common interest; or
- (c) making recommendations upon any such subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject.

it shall be lawful for the President by order to establish such a Council and to define the nature of the duties to be performed by it and its organisation and procedure.

### CHAPTER III.—Property Contracts, Liabilities and Suits

**270.** As from the commencement of this Constitution, the Government of India and the Government of each State for the time being specified in Part I of the First Schedule shall respectively be the successors of the Government of the Dominion of India and of the corresponding Governors' Provinces as regards all property, assets, liabilities and obligations subject to any adjustment made or to be made by reason of the creation before the commencement of this Constitution of the Dominion of Pakistan or of the Provinces of West Bengal, East Bengal, West Punjab and East Punjab.

**271.** Subject as hereinafter provided, any property in the territory of India except the States for the time being specified in Part III of the First Schedule which, if this Constitution had not come into operation, would have accrued to His Majesty by escheat or lapse, or as bona-vacantia for want of a rightful owner, shall, if it is property situate in a State for the time being specified in Part I of the First Schedule, vest in such State, and shall, in any other case, vest in the Union.

Provided that any property which at the date when it would have so accrued to His Majesty was in the possession or under the control of the Government of India or the Government of a State for the time being specified in Part I of the First Schedule shall, according as the purposes for which it was then used or held were purposes of the Union or of a State so specified, vest in the Union or in the State.

**271-A.** All lands, minerals and other things of value underlying the ocean within the territorial waters of India shall vest in the Union and be held for the purposes of the Union.

**272.** (1) The executive power of the Union and of each State for the time being specified in Part I or Part III of the First Schedule shall extend, subject to any Act of the appropriate Legislature, to the grant, sale, disposition or mortgage of any property held for the purposes of the

Succession  
to assets  
and debts,  
rights and  
liabilities,

Property  
accruing by  
escheat or  
lapse or as  
bona vacantia

All lands,  
minerals  
and other  
things of  
value lying  
within ter-  
ritorial  
waters vest  
in the Union.

Power to  
acquire  
property.

Union or of such State, as the case may be, and to the purchase or acquisition of property for those purposes respectively, and to the making of contracts.

(2) All property acquired for the purposes of the Union or of a State for the time being specified in Part I or Part III of the First Schedule shall vest in the Union or any such State, as the case may be.

**273.** (1) All contracts made in the exercise of the <sup>Contracts</sup> executive power of the Union or of a State for the time being specified in Part I or Part III of the First Schedule shall be expressed to be made by the President, or by the Governor or the Ruler of the State, as the case may be, and all such contracts and all assurances of property made in the exercise of that power shall be executed on behalf of the President or the Governor or the Ruler by such persons and in such manner as he may direct or authorise.

(2) Neither the President, nor the Governor nor the Ruler shall be personally liable in respect of any contract or assurance made or executed for the purposes of this Constitution, or for the purposes of any enactment relating to the Government of India heretofore in force, nor shall any person making or executing such contract or assurance on behalf of any of them be personally liable in respect thereof.

**274.** (1) The Government of India may sue or be sued by the name of the Union of India and the Government of a State for the time being specified in Part I or Part III of the First Schedule may sue or be sued by the name of the State and may subject to any provisions which may be made by Act of Parliament or of the Legislature of such State, enacted by virtue of powers conferred by this Constitution, sue or be sued in relation to their respective affairs in the like cases as the Dominion of India and the corresponding Provinces or the corresponding Indian States might have sued or been sued if this Constitution had not been enacted.

(2) If at the date of commencement of this Constitution—

(a) any legal proceedings are pending to which the Dominion of India is a party, the Union of

India shall be deemed to be substituted for the Dominion in those proceedings; and

- (b) any legal proceedings are pending to which a Province or an Indian State is a Party, the corresponding State shall be deemed to be substituted for the Province or the Indian State in those proceedings.

[ *Articles 275 to 288 held over.* ]

## PART XIII—Elections

**289.** (1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution, including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with elections to Parliament and to the Legislatures of States shall be vested in a Commission (referred to in this Constitution as the Election Commission).

(2) The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix and the appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in this behalf by Parliament, be made by the President.

(2a) When any other Election Commissioner is so appointed the Chief Election Commissioner shall act as the Chairman of the Election Commission.

(3) Before each general election to the House of the People and to the Legislative Assembly of each State and before the first general election and thereafter before each biennial election to the Legislative Council of each State having such Council, the President shall also appoint after consultation with the Election Commission such Regional Commissioners as he may consider necessary to assist the Election Commission in the performance of the functions conferred on it by clause (1) of this article.

(4) Subject to the provisions of any law made by Parliament, the conditions of service and tenure of office of the Election Commissioners and the Regional Commissioners shall be such as the President may by rule determine:

Provided that the Chief Election Commissioner shall not be removed from office except in like manner and on the like grounds as a judge of the Supreme Court and

the conditions of service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment:

Provided further that any other Election Commissioner or a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner.

(5) The President or the Governor or Ruler of a State shall, when so requested by the Election Commission, make available to the Election Commission or to a Regional Commissioner such staff as may be necessary for the discharge of the functions conferred on the Election Commission by clause (1) of this article.

**289-A.** There shall be one general electoral roll for every territorial constituency for election to either House of Parliament or to the House or either House of the Legislature of a State and no person shall be ineligible for inclusion in, or claim to be excluded from, any such roll on grounds only of religion, race, caste, sex or any of them.

No person to be ineligible for inclusion in, or to claim to be excluded from, the electoral roll on grounds of religion, race, caste or sex.

**289-B.** The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage; that is to say, every citizen, who is not less than twentyone years of age on such date as may be fixed in this behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled, to be registered as a voter at any such election.

Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage.

**290.** Subject to the provisions of this Constitution, Parliament may from time to time by law make provisions with respect to all matters relating to, or in connection with, elections to either House of Parliament or to the House or either House of the Legislature of a State including the preparation of electoral rolls and all other matters necessary for securing the due constitution of such House or Houses and the delimitation of constituencies.

Power of Parliament to make provisions with respect to elections to Legislatures.

**291.** Subject to the provisions of this Constitution and in so far as provision in that behalf is not made by Parliament, the Legislature of a State may from time to time by law make provisions with respect to all matters relating to, or in connection with, the elections to the House or either House of the Legislature of the State including the preparation of electoral rolls and all other matters necessary for securing the due constitution of such House or Houses.

**291-A.** Notwithstanding anything contained in this Constitution—

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 290 or article 291 of this Constitution shall not be called in question in any court;

(b) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature.

[*Articles 292 to 296 held over*]

Power of  
Legislature  
of a State to  
make pro-  
visions with  
respect to  
elections to  
such Legis-  
lature.

Bar to Juris-  
diction of  
courts in  
electoral  
matters.

**297.** (1) During the first two years after the Commencement of this Constitution, appointments or members of the Anglo-Indian community to posts in the railway, customs, postal and telegraph services of the Union shall be made on the same basis as immediately before the fifteenth day of August 1947.

During every succeeding period of two years, the number of posts reserved for the members of the said community in the said services shall, as nearly as possible, be less by ten per cent than the numbers so reserved during the immediately preceding period of two years:

Provided that at the end of ten years from the commencement of this Constitution all such reservations shall cease.

(2) Nothing in clause (1) shall bar the appointment of members of the Anglo-Indian community to posts other than, or in addition to, those reserved for the community under that clause if such members are found qualified for appointment on merit as compared with the members of other communities.

**298.** During the first three financial years after the commencement of this Constitution, the same grants, if any, shall be made by the Union and by each State for the time being specified in Part I of the First Schedule for the benefit of the Anglo-Indian community in respect of education as were made in the financial year ending on the 31st day of March 1948.

During every succeeding period of three years the grants may be less by ten per cent than those for the immediately preceding period of three years:

Provided that at the end of ten years from the commencement of this Constitution, such grants, to the extent to which they are a special concession to the Anglo-Indian community, shall cease:

Provided further that no educational institution shall be entitled to receive any grant under this article unless at least forty per cent of the annual admissions therein are made available to members of communities other than the Anglo-Indian community.

**299.** [Held over]

**300.** (1) The President may at any time and shall, on the expiration of ten years from the commencement of this Constitution, by order, appoint a Commission to report on the administration of the scheduled areas and the welfare of the scheduled tribes in the States for the time being specified in Part I and Part III of the First Schedule.

The order may define the composition, powers and procedure of the Commission and may contain such incidental or ancillary provisions as the President may consider necessary or desirable.

(2) The executive power of the Union shall extend to the giving of directions to such a State as to the drawing up and execution of schemes specified in the direction to be essential for the welfare of the scheduled tribes in the State.

**301.** (1) The President may by order appoint a Commission consisting of such persons as he thinks fit to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour and to make recommendations as to the steps that should be taken by the Union or any State to remove such difficulties and to improve their condition and as to the grants that should be given for the purpose by the Union or any State and the conditions subject to which such grants should be given, and the order appointing such Commission shall define the procedure to be followed by the Commission.

(2) A Commission so appointed shall investigate the matters referred to them and present to the President a report setting out the facts as found by them and making such recommendations as they think proper.

(3) The President shall cause a copy of the report so presented, together with a memorandum explaining the action taken thereon to be laid before each House of Parliament.

PRESIDENT'S  
SECRETARIAT  
LIBRARY